

**Ko'Kwel Wharf Dock Access Work
BID PACKAGE
Contract Documents and Technical Specifications**

April 3, 2025

OWNER:

Mith-ih-Kwuh Economic Development Corporation
Attn: Brady Scott, President of Economic Development
1515 Sheridan Ave.
North Bend, Oregon, 97459

Mith-ih-Kwuh Economic Development Corporation
Ko'Kwel Wharf Dock Access Work Bid Documents

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PART I
INVITATION TO BID

Mith-ih-Kwuh Economic Development Corporation
Ko’Kwel Wharf Dock Access Work
NOTICE OF INVITATION TO BID

Mith-ih-Kwuh Economic Development Corporation (“Owner”) issues this Invitation to Bid (this “ITB”) for the Ko-Kwel Wharf Dock Access Work which will include replacement of an access ladder on the Ko-Kwel Wharf dock and procurement and installation of marine camels at the Ko’Kwel Wharf (the “Project”). A project description and bid specifications (contained in the plans) are provided in the Instructions to Bidders contained in the Bid Documents.

Sealed bids will be received by Brady Scott, President of Economic Development for Mith-ih-Kwuh Economic Development Corporation (“Owner”), via email at bradyscott@tribal.one, with a copy to Alan Dale at alandalelaw.com until 3:00 p.m., Pacific Time, on April 18, 2025, at which time and place they will be opened. No bids will be accepted after this time. Subcontractor disclosure forms are due by 5:00 p.m., Pacific Time, the same day.

Bid Documents may be obtained upon request by emailing Mr. Scott at Bradyscott@tribal.one.

Construction is anticipated to begin on or before May 10, 2025 and to be completed no later than June 15, 2025. This project is funded with grant funds from State of Oregon. This project is subject to ORS 279C.800 to 279C.870 or Davis-Bacon Act 40 U.S.C. 276(a), relating to the payment of prevailing wages. Compliance with grant terms will be required, including compliance with applicable prevailing wage rates for Region 7, Coos and Curry counties, as established by the Oregon Bureau of Labor and Industries.

Mith-ih-Kwuh Economic Development Corporation
Ko’Kwel Wharf Dock Access Work
INSTRUCTIONS TO BIDDERS

1. Project Description. The Ko-Kwel Wharf Dock Access Work Project includes replacement of an access ladder on the Ko’Kwel Wharf dock and procurement and installation of marine camels at the Ko’Kwel Wharf. Contract terms, conditions and Project specifications for this Project are included in the Contract Agreement. The description of work contained above is not a substitute for and will not relieve the successful bidder from compliance with any permitting requirements. Owner anticipates that work will commence on or before May 10, 2025 and be completed on or before June 15, 2025. The actual commencement date for performance of the work will occur after the Owner provides a notice to proceed.

2. Pre-Bid, Bid, and Post-Bid Requirements.

2.1 Sealed bids (“Bid(s)”) must be submitted on the bid form included in this ITB (the “Bid Form”). The Bid Form must be properly and fully completed and properly executed by a person with authority to bind the bidder to the obligations contained herein, and shall include all other certificates required by these Instructions to Bidders properly signed and attached to the Bid Form. Failure to submit a complete, properly filled out Bid on the proper form may result in rejection of the Bid at Owner’s discretion.

2.2 Submission of a Bid constitutes an affirmative statement that the bidder, and each member of its team accepts the terms and conditions of the form of Contract, General Conditions, and all other Contract Documents, including completion of the Work within the Contract Time, and that the bidder will execute the Contract without change, except as expressly authorized by Owner. Any exclusions, exceptions, or clarifications included in a bidder’s Bid Form are null and void and will not be considered. Execution of a Bid is an affirmative statement by such individual, that he or she has the authority to bind the bidder to the obligations contained herein.

2.3 Bids will be received by Brady Scott, President of Economic Development for the Owner, via email at bradyscott@tribal.one, with a copy to Alan Dale at alan@alandalelaw.com until 3:00 p.m., Pacific Time, on April 18, 2025 at which time and place they will be opened. No bids will be accepted after this time. Subcontractor disclosure forms are due by 5:00 p.m., Pacific Time, the same day.

2.4 The Bid must be sent as a PDF attachment with the email subject line, “**Ko’Kwel Wharf Dock Access Work**” and in the body of the e-mail shall be stated, “Attached is a Bid due the 18th day of April, 2025, at 3:00 p.m., Pacific Time, for the **Ko’Kwel Wharf Dock Access Work** from [Insert Name of Bidder].” It is the bidder’s responsibility to ensure that its bid is in the possession of the person identified above by the identified deadline.

2.5 Bid documents and contract documents may be reviewed online at:
<https://www.tribal.one/news/tribal-one-invites-bids-for-kokwel-wharf-marine-camels-access-ladder/>

2.6 A bidder may withdraw its Bid at any time prior to the scheduled deadline for receipt of the Bids by providing written notice to Mr. Scott of the bidder’s election to withdraw its Bid. No bidder may withdraw or modify the bidder’s bid after deadline above, until after the lapse of 40 days from the deadline above. Bids received after the designated due time, for any reason, will not be accepted.

2.7 Owner reserves the right to reject any bid not in compliance with all prescribed bidding procedures and requirements, and may reject, for any cause, any or all bids upon a finding of Owner that it is in the best interest of Owner and the project to do so. Owner reserves the right, in Owner's sole discretion, to waive any bid irregularities or informalities. Bids containing alterations or erasures may be rejected at Owner's discretion. Owner reserves the right, in Owner's sole discretion, to cancel or modify this ITB, or extend deadline to respond to this ITB. This ITB does not obligate Owner to enter into a contract or proceed with the procurement described herein. Bidders responding to this ITB do so at their own risk and sole costs and expenses.

2.8 Should any questions arise as to the interpretation of any part of the plans, specifications, or other Bid Documents, the bidder shall submit a written request by e-mail to Mr. Scott at bradyscott@tribal.one. Questions must be received by Mr. Scott no later than 8:00 a.m., Pacific Time, on Monday, April 14, 2025. If merited, replies may be issued by addendum, which will be posted on Owner's website at <https://www.tribal.one/news/tribal-one-invites-bids-for-kokwel-wharf-marine-camels-access-ladder/upon> issuance. Only interpretations made by written addendum shall have any force or effect. Owner will not address any request received after 8:00 a.m., Pacific Time, on Monday, April 14, 2025. Responses to questions and any addenda will be posted to Owner's website. Owner will not participate in communications with bidders (or their agents) regarding the status of the bid process. Bidders shall not contact, communicate with or discuss any matter relating to this ITB during the procurement process with any employee or representative of Owner, other than as noted herein. No oral interpretation or clarification will be made to any contractor or consultant as to the meaning of the ITB or attachments thereto, or other information furnished by Owner with this ITB.

2.9 Bid Security. Bid security in the amount of not less than 10% of the bid must accompany each Bid. This bid bond penal sum shall be in the minimum amount of ten percent (10%) of the maximum bid amount including all additive alternate bids. The successful bidder will be required to furnish approved one hundred percent (100%) Performance and Payment Bond, in form and substance acceptable to Owner. A sample form of the bonds is included in these Bid Documents. The Performance and Payment Bonds shall remain in effect throughout the entire construction period and, in addition, for a period of one year from the date of final acceptance of the work or as otherwise provided in the Bond or by applicable statute, whichever is longer.

2.10 Bidder Responsibilities. Before submitting a bid, each bidder is responsible for: (a) examining the contract documents thoroughly; (b) visiting the site, so that the bidder may familiarize itself with local conditions which may, in any manner, affect cost progress, or performance of the work; (c) becoming familiar with state, federal, and local laws, ordinances, rules and regulations which may, in any manner, affect cost, progress or performance of the Work, including, without limitation, the applicable federal, state, and local permits; and (d) studying and carefully correlating bidder's observations with the contract documents. Any bidder desiring to arrange for a site visit to the property must contact Mr. Scott via email at bradyscott@tribal.one.

3. Prequalification; Contractor Responsibility.

3.1 All contractors and subcontractors of any tier, prior to performing work on the Project, must be prequalified as provided herein and in accordance with Oregon law. For purposes of this ITB and Project, this means that the successful bidder and subcontractors are required to be prequalified by the anticipated date of commencement identified above. If the successful bidder fails to provide

documentation that it is prequalified as required herein, Owner may reject its Bid, award to the next lowest bidder, and enforce all rights against the successful bidder and, if applicable, its bid bond.

3.2 Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform work. In determining the lowest responsible bidder, Owner shall check the list created by the Construction Contractors Board under ORS 701.227 for bidders who are not qualified to hold a public improvement contract and determine whether the bidder has met the standards of responsibility. Owner shall also consider the following factors and may disqualify any person as a bidder if it finds the bidder:

- (a) Does not have available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise necessary to meet all contractual responsibilities;
- (b) Does not hold a current license that a contractor operating in Oregon must hold in order to undertake or perform Project Work;
- (c) Is not covered by liability insurance or other insurance in required amounts;
- (d) Does not qualify as a carrier insured employer or a self-insured employer under ORS 656.407 or has not elected coverage under ORS 656.128;
- (e) Failed to provide a First-Tier Subcontractor Disclosure Form, if required under ORS 279C.370;
- (f) Does not have a satisfactory record of performance. Owner shall document the record of performance of a bidder if Owner finds the bidder not to be responsible under this paragraph (f);
- (g) Does not have a satisfactory record of integrity. Owner shall document the record of integrity of a bidder if the Owner finds the bidder not to be responsible under this paragraph (g);
- (h) Is not qualified legally to contract with the Owner; or
- (i) Has not supplied all necessary information in connection with the inquiry concerning responsibility.

Each bidder shall promptly supply information as requested by the Owner pursuant to such investigation. If a bidder fails to promptly supply information requested by the Owner concerning responsibility, the Owner shall base the determination of responsibility upon any available information or may find the bidder not to be responsible. Failure to supply such information may be grounds for disqualification. Whether a bidder is responsive and responsible will be determined by Owner and based on the information submitted in connection with each Bid.

4. Notice of Award; Protest; and Completion.

4.1 At least seven (7) days prior to final award, all bidders will receive the Owner's Notice of Intent to Award issued via email. Owner anticipates final Contract award on or before May 5, 2025.

Award and solicitation protests must be timely submitted to Owner following substantially in accordance with OAR 137-049-0260(3) and 137-049-0450(4), respectively.

4.2 Within five business (5) days of the Notice of Intent to Award, the bidder to whom the contract is awarded shall submit a completed and fully executed W-9 form, a completed and fully executed Performance and Payment Bond, and all certificates of insurance required in the Contract Documents, all in accordance with the requirements herein and the Contract Documents.

4.3 As a condition precedent to the formation of any contract between Owner and any bidder, the contract must be approved by Owner's Chief Executive Officer. As soon as practicable after approval by the CEO and after submission of documents required above, the successful bidder will be notified in writing of Owner's approval of the Contract and will be furnished the Contract Documents for execution. The successful bidder must execute these documents within seven (7) days after notification from Owner. Failure to do so may result in damages including forfeiture of the penal sum of the bidder's bid bond.

4.4 Unless otherwise provided in the Contract Documents, the successful bidder shall proceed with the Work upon receipt of a Notice to Proceed from Owner and it shall commence to complete the Work within the Contract Time (as defined in the Contract Documents), as soon as practicable thereafter.

5. Compliance with Laws and Certifications.

5.1 Applicable Federal, State, and Local Laws. Contractor and its subcontractors shall be required to comply with all applicable federal, tribal, state, and local laws, rules, regulations, guidelines, and ordinances. As a tribally owned entity, Owner encourages participation by Native American owned businesses or other disadvantaged business enterprises. Contractors are required to document participation of such firms as subcontractors.

5.2 Employer's Drug Testing Program. Each bidder must submit a written plan for a program to test the bidder's employees for illicit drugs.

6. FY2024 Connect Oregon Grant Requirements.

6.1 The Ko-Kwel Wharf Dock – Access Work is funded in part from the Oregon Department of Transportation ("ODOT") Connect Oregon program under Recipient Agreement No. CO9-012 (the "CO Grant Agreement"). Contractors must understand and comply with grant requirements for all portions of the project funded by this grant. The successful Bidder will be required to perform all work and other obligations under its Contract with Owner in accordance with the terms of the CO Grant Agreement. A redacted copy of the CO Grant Agreement may be provided upon request. As the Project is being funded, in part, by State of Oregon grant funds, the selected Contractor and its subcontractors will be required to specifically acknowledge and agree to comply, to the extent applicable, with those state laws, regulations, executive orders, policies, guidelines, and requirements included as part of the CO Grant Agreement ("State Laws"). Submittal of a Bid constitutes an affirmative statement and certification that Bidder understands and will comply and will require its subcontractors to comply with all applicable State Laws.

7.2 All bidders shall comply with the provisions of ORS 279C.800 to ORS 279C.870. Contractors submitting bids are required to be registered with the Oregon Construction Contractor's Board (prior to starting any construction work) and comply with ORS 279C.800 to 279C.870.

8. In addition to any other information requested in the Bid Form, each Bid shall include the following information as separate attachments:

8.1 A description of business activities and experience that demonstrates: (a) familiarity and expertise with environmental permit compliance (USACE, DSL, DEQ, NMFS, etc.); and (b) a minimum of ten (10) years prior experience in the marine dock construction and/or rehabilitation or improvement business.

8.2 A brief description of your firm's proposed approach to completing the work described in the Project Description. Include a description the firm's plan to perform the marine camel installation work. Also, include strategies, if any, for containing costs and meeting the project completion date. Include a proposed timeline showing significant project milestones. This section must demonstrate the bidder's timeliness to complete previous projects on schedule, including the number of change orders in such projects and the reasons for the change orders. *[Not to exceed three (3) pages.]*

8.3 A description of all applicable licenses held in the state of Oregon, including the number and expiration date.

8.4 A certification that the Bidder provides worker's compensation coverage for all its employees working in Oregon, or is an exempt employer under ORS chapter 656.

8.5 A certification that the Bidder will ensure and assume responsibility for each subcontractor engaged to work on the project.

8.6 A certification that the Contractor has in place an employee drug-testing program that will be maintained throughout the term of this Agreement.

8.7 A description of any litigation in last five (5) years pertaining to previous marine contracts or construction, including how the matter was resolved.

8.8 Provide names, project descriptions, dates, and contact information for at least three (3) professional references for whom you have provided comparable services within the last five (5) years. By submitting this information, you agree to allow Owner to contact any or all of the references provided to confirm or supplement the information provided. *[Not to exceed three (3) pages.]*

8.9 Name and title of principal contacts for the Project.

[end of instructions]

BIDDER'S CHECKLIST

FORMS TO EXECUTE FOR SUBMISSION OF BID

The Bidder's attention is especially called to the following forms which must be executed in full before bid is submitted:

- a. Bid Form: The Bid Form is to be filled in and signed by the bidder and returned with Bid, including any requested additional information.
- b. Bond Accompanying Bid: All bids shall be accompanied by a guarantee equal to at least ten percent (10%) of the bid amount. This guarantee may be in the form of **a bond, certified check or cashier's check**. Bid bonds will be accompanied by a power of attorney bearing the same date as the bond.
- c. State of Oregon Certification of Nondiscrimination: This form must be signed and submitted with bid.
- d. First-Tier Subcontractor disclosure form, within 2 hours of bid closing.
- e. State of Oregon Drug-Free Workplace Certification.

FORMS TO EXECUTE AFTER AWARD OF BID

- a. Contract: The agreement provided in these bid documents is to be executed by the successful bidder within 7 day after notice from Owner.
- b. Proof of Insurance: Insurance must comply with the Contract, General Conditions, Supplementary Provisions, and all other Contract Documents (as applicable) and the state grant requirements. Proof of such insurance and additional insured certificate must be delivered to Owner at the same time identified in the Instructions to Bidders.
- c. Bonds: The contractor shall furnish a performance bond and a payment bond each in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance and payment of the Contract.

This is a non-exhaustive list of bid requirements and intended to facilitate a Bidder's submission of a Bid. Bidders must read and review all Bid Documents and nothing herein creates any liability of Owner for a Bidders failure to submit a properly completed Bid.

FORMS TO BE COMPLETED AND INCLUDED WITH CONTRACTOR'S BID

Mith-ih-Kwuh Economic Development Corporation **Ko'Kwel Wharf Dock Access Work**

BID FORM

BID OF _____ (hereinafter called "Bidder"), a [a joint venture, a corporation, a partnership or an individual as applicable] organized and existing under the laws of the State of _____, doing business as _____

To: Mith-ih-Kwuh Economic Development Corporation ("Owner")

1. The undersigned Bidder, in compliance with Owner's Invitation to Bid, including the INSTRUCTIONS TO BIDDERS, for the Ko'Kwel Wharf Dock Access Work, having examined the plans and specifications, contract, with related documents and having examined the site of the project work and being familiar with all the conditions pertaining to the construction of the project, hereby offers to furnish all labor, materials, equipment and supplies necessary to construct the project in accordance with the contract documents within the time set forth therein, and at the unit prices stated below. The prices are to cover all the costs connected with performing the work required under the Contract Documents, of which this bid is a part.

2. The Bidder submits the unit prices set forth herein as those at which the Bidder will perform the work involved. The extensions in the column headed "Total" are made for the sole purpose of facilitating comparison of bids and if there are any discrepancies between the unit prices and the total amounts shown, the unit prices shall govern.

3. The Bidder certifies by the submission of this bid, that all requirements of ORS 279C.838 ORS 279C.840 (Prevailing Wage Rate Laws) will be complied with throughout the course of the contract. The Bidder further certifies that the Bidder is, to the best of the Bidder's knowledge, not in violation of any tax laws described in ORS 305.380(4).

4. The Bidder acknowledges receipt of the following Addenda numbered ____ through _____. The Bidder accepts all the terms and conditions of the Instructions to Bidders, including, without limitation, those dealing with the disposition of bid security. The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 40 calendar days after the scheduled closing date for receiving bids.

5. The Bidder agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances that are pertinent to construction contracts of this character, even though such laws may not have been quoted or referred to in the Contract Documents. Without limiting the foregoing, the Bidder agrees to perform the Work and comply with the terms and applicable requirements of the CO Grant Agreement.

6. The Bidder will execute the Contract within 7 days after notice from Owner. Upon receipt of the Notice of Award, the Bidder will deliver Payment and Performance Bonds as required by the contract documents. The Bid Security accompanying this bid is to become the property of Owner in the event the contract and bonds are not executed within the time above set forth, as liquidated damages for the delay and additional expense to Owner caused thereby.

7. The Bidder agrees to commence work under this contract within 7 calendar days after issuance to the Bidder of written Notice to Proceed by Owner. The Bidder agrees to substantially complete the project indicated in the Contract, with such extensions of time as are provided in the Contract Documents. The Bidder accepts the provisions of the Agreement regarding liquidated damages in the event of failure to complete the work of the project on or before the dates or within the number of calendar days indicated in Contract for milestones, substantial completion, and final completion, as applicable, with such extensions of time as are provided in the General Conditions.

8. The Bidder declares that the only persons or parties interested in this bid are those named herein, that this bid is in all respects fair and without fraud, and that it is made without collusion with any other bidder and without collusion with any representatives of Owner. The Bidder hereby represents that no employee of Owner, or any partnership or corporation in which an employee of Owner has an interest, has or will receive any remuneration of any description from the Bidder, either directly or indirectly, in connection, except as specifically declared in writing.

9. Each unit price will be deemed to include an amount considered by Bidder to be adequate to cover Bidder’s overhead and profit for each separately identified item. The Bidder will complete the work for the following prices in accordance with the unit prices and totals as follows:

<u>Bid Quantities and Specifications</u>	<u>Unit Price</u>	<u>Total</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Bidder will complete the entire project for the following: **TOTAL BASE BID:** _____

10. Bidders shall submit a separate attachment or attachment(s) to this Bid with the following information:
- a. A description of business activities and experience that demonstrates: (a) familiarity and expertise with environmental permit compliance (USACE, DSL, DEQ, NMFS, etc.); and (b) a minimum of ten (10) years prior experience in the marine dock construction and/or rehabilitation or improvement.
 - b. A brief description of your firm’s proposed approach to completing the work described in the Project Description. Include a description the firm’s plan to perform the marine camel installation work. Also, include strategies, if any, for containing costs and meeting the project completion date. Include a proposed timeline showing significant project milestones. This section must demonstrate the bidder’s timeliness to complete previous projects on schedule, including the number of change orders in such projects and the reasons for the change orders. *[Not to exceed three (3) pages.]*
 - c. A description of all applicable licenses held in the state of Oregon, including the number and expiration date.

- d. A certification that the Bidder provides worker's compensation coverage for all its employees working in Oregon, or is an exempt employer under ORS chapter 656.
- e. A certification that the Bidder will ensure and assume responsibility for each subcontractor engaged to work on the project.
- f. A certification that the Contractor has in place an employee drug-testing program that will be maintained throughout the term of this Agreement.
- g. A description of any litigation in last five (5) years pertaining to previous marine or construction contracts, including how the matter was resolved.
- h. Provide names, project descriptions, dates, and contact information for at least three (3) professional references for whom you have provided comparable services within the last five (5) years. By submitting this information, you agree to allow Owner to contact any or all of the references provided to confirm or supplement the information provided. [*Not to exceed three (3) pages.*]
- i. Name and title of principal contacts for the Project.

11. The following documents are attached to and made a condition of this bid:

- a. The required Bid Security (Bid Bond) enclosed with the Bid Form.
- b. The First-Tier Subcontractor Disclosure Form submitted in a separate envelope within two hours after the date and time of the bid opening.
- c. This Bid Form.
- d. The attachments identified in Section 10, above, of this Bid Form in addition to any reference certification or forms identified in the Instruction to Bidders.

12. In submitting this Bid, Bidder represents and certifies that:

- a. Bidder has carefully studied this Invitation to Bid, the Contract Documents, and all attachments.
- b. Bidder's bid is inclusive of any and all costs to be incurred by Bidder to fully complete the Project described herein.
- c. Bidder has examined the site and locality where the Work is to be performed, the applicable legal requirements (federal, state, and local, ordinances, rules, and regulations) and the conditions affecting cost, progress, or performance of work, and has made such independent investigation as bidder deems necessary.
- d. Bidder is familiar with all federal, state and local laws and regulations that may affect cost, progress and performance of the work described herein.

- e. Bidder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies, if any, that Bidder has discovered in the solicitation documents, and the written resolution thereof by Owner is acceptable to Bidder.
- f. Bidder does not require nor request any further examinations, investigations, explorations, tests, studies, or data are necessary in order to submit a bid for performance of the Work at the proposed price(s), within the times required, and in accordance with the other terms and conditions of the Contract Documents.
- g. The Invitation to Bid, Project Description, project plans, and form of contract are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- h. Bidder has not been disqualified under ORS 701.227 by the Construction Contractors Board from bidding on public projects.
- i. Bidder has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.
- j. Bidder has completed previous contracts of a similar nature with a satisfactory record of performance. For purposes of this subparagraph, a satisfactory record of performance means that to the extent that the costs associated with and time available to perform a previous contract remained within the bidder's control, the bidder stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner.
- k. This Bid is submitted in good faith, is not made in the interest of or on behalf of any undisclosed individual or entity, and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation.
- l. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
- m. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

Bidder [check one] is ___ / is not ___ a resident bidder, as defined by ORS 279A.120 (1)(b).

9. Communications with Bidder concerning this bid shall be addressed to:

Name: _____ Position: _____
 Phone: _____
 Email: _____

/

Respectfully Submitted,

Name of Firm: _____

Address: _____

Federal Employer I.D. No.: _____

State Employer I.D. No.: _____

State C.C.B. Registration No.: _____

Telephone No.: : _____

FAX No. () _____

Dated this ____ day of _____ 2025.

By: _____

(Signature)

Name: _____

(Please Print)

Title: _____

If Corporation, Attest: _____

(Secretary of Corporation)

BID BOND

We, _____, as "Principal,"
(Name of Principal)

and _____, an _____ Corporation,
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay the Mith-ih-Kwuh Economic Development Corporation ("Obligee") the sum of (\$_____) _____ dollars.

WHEREAS, the condition of the obligation of this bond is that Principal has submitted its bid to the Obligee in response to Obligee's project identified as the Ko'Kwel Wharf Dock Access Work, which bid is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the bid pursuant to the bid documents.

NOW, THEREFORE, if the bid submitted by Principal is accepted, and if a contract pursuant to the bid is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the procurement document and executes and delivers to Obligee its good and sufficient performance and payment bonds required by Obligee within the time fixed by Obligee, then this obligation shall be void; otherwise, it shall remain in force and effect.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this _____ day of _____, 2025.

PRINCIPAL: _____

SURETY: _____

By: _____
Signature

BY ATTORNEY-IN-FACT:

Official Capacity

Name

Attest: _____
Corporation Secretary

Signature

Address

City

State, Zip

Phone: _____

Fax: _____

STATE OF OREGON CERTIFICATION OF NONDISCRIMINATION

Pursuant to the requirements of ORS 279A.110, I certify that I have not discriminated and will not discriminate against a subcontractor in awarding a subcontractor because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned by or that employs a disabled veteran, as defined in ORS 408.225

DATE: _____

BIDDER: _____

NOTE: THIS STATEMENT MUST BE RETURNED WITH THE BID

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

Notice to Bidders: Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified disclosure Deadline, are not responsive and shall not be considered for Contract award.

OWNER SUPPLIED INFORMATION:

PROJECT NAME: **Ko’Kwel Wharf Dock Access Work**

BID #:

BID CLOSING: Date: **April 18, 2025**

Time: 3:00 p.m.

REQUIRED DISCLOSURE DEADLINE: Date: **April 18, 2025**

Time: 5:00 p.m.

Deliver Form To (Owner): Mith-ih-Kwuh Economic Development Corporation
Designated Recipient (Person): Brady Scott, President of Economic Development

INSTRUCTIONS:

This form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

Unless otherwise stated in the solicitation, this document shall not be submitted by facsimile. It is the responsibility of bidders to submit this disclosure form and any additional sheets, with the bid number and project name clearly marked, at the location indicated by the specified disclosure deadline. See “Instructions to Bidders”.

List below the Name, Category of Work add Dollar Value for each first-tier subcontractor that would be furnishing labor, or labor and material, for which disclosure is required. Enter the word "NONE" if there are no first-tier subcontractors subject to disclosure. (ATTACH ADDITIONAL SHEETS IF NECESSARY.)

BIDDER DISCLOSURE:

	SUBCONTRACTOR NAME	CATEGORY OF WORK	DOLLAR VALUE
1.			
2.			
3.			
4.			
5.			

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than: (a) 5% of the total Contract Price, but at least \$15,000. [If the Dollar Value is less than \$15,000 do not list the subcontractor above.]; or (b) \$350,000 regardless of the percentage of the total Contract Price.

Form Submitted By (Bidder Name): _____

Contact Name: _____

Phone #: _____

STATE OF OREGON DRUG-FREE WORKPLACE CERTIFICATION

The Bidder hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Bidder will give written notice to Owner within ten (10) days after receiving actual notice that the Bidder or an employee of the Bidder in the State of Oregon has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State of Oregon for up to three (3) years.

The Bidder certifies and agrees that it will provide a drug-free workplace by:

- (a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacturer, distribution, dispensing, possession or use of a controlled substance is prohibited in the Bidder's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- (b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the Bidder's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- (c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- (d) Notifying in writing Owner within ten (10) days after receiving notice from an employee under subdivision (c)(2) above, or otherwise receiving actual notice of such conviction; and
- (e) Within thirty (30) days after receiving notice under subdivision (c) (2) above of conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (f) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

Printed Name of Organization Contact

PART II
FORM OF CONTRACT AND GENERAL CONDITIONS

CONSTRUCTION AGREEMENT

This Construction Agreement (this "Agreement") made this ____ day of _____, 2025 by and between Mith-ih-Kwuh Economic Development Corporation ("Owner") and _____ ("Contractor"). Capitalized terms not defined in this Agreement shall have the meaning ascribed to such terms in the General Conditions. For purposes of this Agreement, Contractor and Owner may be referred to each as a "Party" and collectively the "Parties." The Engineer for this Project is McGee Engineering, Inc.

The Owner and Contractor, in consideration of mutual covenants hereinafter set forth, agree as follows:

Article II Scope of the Work

The Contractor hereby agrees to furnish all labor, materials, equipment, personnel, and supplies necessary for the proper and timely construction and completion of the Ko'Kwel Wharf Dock Access Work project (the "**Project**") all in accordance with the requirements and provisions of the Contract Documents. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. The Contractor shall perform all the labor in a good and workmanlike manner and shall furnish all the materials as specified by the Agreement, (hereafter the "Work"). All subcontractors employed for any part of the Work shall be licensed and bonded in the State of Oregon.

ARTICLE III Schedule

Contractor will commence work under this Contract within 7calendar days of Owner's delivery of a written notice to proceed

Substantial Completion: The Work shall be substantially complete on or before June 15, 2025.

Time of Completion: All Work shall be finally complete 14 days after Substantial Completion.

ARTICLE IV Contract Sum

Owner shall pay the Contractor for the Work, subject to additions and deductions provided therein, a Contract Sum in an amount not to exceed \$_____ which reflects the amount of the Bid.

ARTICLE V Progress Payments

Owner will make periodic progress payments as follows:

5.1 On no later than the twenty-fifth calendar day of every month the Contractor shall prepare and submit to the Engineer a progress payment estimate filled out and signed by the Contractor. The estimate shall cover the total quantities under each item of work that have been completed from the start of the job up to and including the last day of the preceding period and shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, and other direct

costs, and travel. The estimate shall include the value of the work so completed determined in accordance with such supporting evidence as may be required by Owner and/or Engineer. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to Owner, as will establish Owner's title to the material and equipment, and protect its interest therein, including applicable insurance.

5.2. The Engineer will review the application for payment in accordance with Paragraph 14.02 of the General Conditions.

5.3 If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as the claim becomes due, Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of the contract.

5.4 Owner will, after deducting previous payments made, any payments made under applicable law, promptly pay to the Contractor the amount of the estimate as approved by the Engineer. Progress payments shall not be considered acceptance or approval of any work or waiver of any defects therein. In accordance with ORS 279C.570, Owner will pay to the Contractor interest on the progress payment due the Contractor beyond the applicable due date. The interest, if any, shall be charged and paid in accordance with ORS 279C.570.

5.5 Prior to Substantial Completion of any portions of the Work, Owner, with the approval of Engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.

5.6 Owner reserves the right to enter the premises for the purpose of doing Work not covered by the Contract Documents. This provision shall not be construed as relieving Contractor of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agents or employees of the Owner. Such entry or Work shall only be allowed to the extent it does not interfere with Contractor's Work.

ARTICLE VI

Acceptance and Final Payment

6.1 Contractor will deliver written notice to Owner and Engineer when it deems the Work (including all approved orders) is fully completed and ready for final inspection and acceptance. Thereafter, the Engineer will promptly inspect the Work. When the Engineer finds the work acceptable under the Contract and Contract fully performed, the Engineer will issue a final certificate stating that the work required by this Contract has been completed and is accepted by the Engineer.

6.2 Final payment shall be payable in accordance with Section 14.07 of the General Conditions.

ARTICLE VII

Work Prior to Approval of Contract

Contractor agrees that any Work performed prior to full execution of the Agreement is done at the sole risk of the Contractor and without recourse against Owner, its employees, or agents.

ARTICLE VIII Liquidated Damages

8.1 Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the work is not substantially complete within the time specified in Article II above, plus any extensions of time allowed in accordance with the General Conditions. Owner and the Contractor also recognize that it would be impractical and extremely difficult to estimate, ascertain, or determine the actual damages suffered by Owner if the work is not substantially complete on time. Accordingly, Owner and the Contractor agree that as liquidated damaged for delay (but not as penalty), the Contractor shall pay Owner for each day that expires after the time specified in Article II until the work is substantially complete as set forth in the General Conditions, an amount of **\$1,000.00** per day.

8.2 Responsibility for Damages / Indemnity:

(a) Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, personnel, or agents.

(b) Contractor shall indemnify, hold harmless, and defend the Owner, its officers, employees and agents from any and all claims, losses, damages, attorney fees, costs and liabilities arising out of accidents, unforeseen difficulties, or intentional, reckless or negligent acts or omissions of the Contractor, its Subcontractors, suppliers, employees, or agents in performance of the Work. Claims include any assertion of a right to monetary damages or equitable relief or any combination thereof.

(c) Owner reserves the right to participate in any claim irrespective of the Contractor's obligations to indemnify, hold harmless, defend or notify. However, if Owner elects to participate in any claim after receiving notification from Contractor, Contractor is not obligated to indemnify the Owner for the costs associated with that participation, although its other obligations to indemnify, hold harmless and defend remain intact.

(d) If any provision of this Contract is determined to require either party to indemnify, defend, reimburse, hold harmless or provide insurance to the other party (or that party's insurers or sureties) in a manner that would violate applicable law (including but not limited to ORS 30.140), then the offending provision shall be construed such that it is given the broadest meaning and effect allowed by law.

(e) The indemnities and other covenants of this Article 8 shall survive the termination of the Contract. The indemnities contained herein are in addition to and not in lieu of additional indemnity obligations contained in the Contract Documents.

ARTICLE IX Compliance with Laws

9.1 General. Contractor shall comply and the Work will be performed in compliance with all applicable federal, state, tribal, and local laws, rules, codes, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If Contractor violates any such federal, state, or local laws, rules, codes, regulations or ordinances, the Contractor shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts.

9.2 Permits. Contractor will procure all Project permits unless instructed otherwise by Owner or Engineer. Contractor will perform the Work in accordance with all applicable permits and approvals. All additional authorizations necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work. Contractor shall conform to all regulations and requirements of any State of Oregon agency with respect to accomplishing Work. Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of Engineer or Owner's administration of the Contract Documents, or by tests, inspections or approvals required or performed.

ARTICLE X Contract Documents

This "Contract Documents" consists of the terms stated herein, and the following additional contract documents attached as Exhibits and identified below, which are incorporated into this Agreement as if fully set forth herein:

1. This Agreement, including all exhibits and attachments
2. The Instructions to Bidders
3. The Contractor's Bid attached as Exhibit G
4. Plans and Specifications prepared by McGee Engineering, Inc. as listed in the attached Exhibit F
5. The General Conditions of the Contract
6. Supplementary Provisions, if any
7. All addenda issued prior to the execution of this Agreement
8. All written modifications, amendments and change orders to this Agreement; and
9. All documents specifically identified as incorporated into the Contract Documents

Exhibits

Exhibit "A" Overall Project Description and Summary of Work for Project
Exhibit "B" Contractor's Prequalification Verification/Statement (if applicable, from Contractor's Bid)
Exhibit "C" First-Tier Subcontractor Disclosure Form (From Contractor's Supplemental Submission)
Exhibit "D" Performance and Payment Bond (From Contractor's Supplemental Submission)
Exhibit "E" Non-Collusion Affidavit (From Contractor's Bid)
Exhibit "F" List of Plans and Specifications
Exhibit "G" Contractor's Bid

Project Specific State Exhibits

Exhibit "H" Connect Oregon Grant Agreement
Exhibit "I" Government Permits and Approvals

The above stated documents and Exhibits are incorporated into each other and the Agreement, and when read together, shall constitute the integrated Agreement of the Parties, and collectively referred to as the "Contract Documents".

ARTICLE XI Miscellaneous

11.1 Further Assurances; Notices. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. Time is of the essence with respect to Contractor's performance of its obligations under this Agreement. All notices or other communications required or permitted by this Agreement must be in writing, must be delivered to the parties at the addresses set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

11.2 Severability; Binding Effect; Survival. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. This Agreement may be amended only by a written agreement signed by each party. Termination of this Agreement, regardless of how it occurs, will not relieve a party of obligations that have accrued before termination. Contractor and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns. All Contractor representations, warranties, covenants, and obligations contained in this Agreement (including, without limitation, Contractor's indemnity obligations) will survive the termination of this Agreement.

11.3 Governing Law; Venue. This Agreement is governed by the laws of the State of Oregon. Any action or proceeding arising out of this Agreement will be litigated in federal or state court having jurisdiction over the parties and this Agreement.

11.4 Waiver; Entire Agreement. No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by Owner and Contractor. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. The Contract Documents may not be changed, altered, or amended in any way except by a writing signed by a duly authorized representative of each party.

11.5 Attorney Fees. If suit, action or arbitration is brought either directly or indirectly to rescind or enforce the terms of this agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as any costs and disbursements. Further, if it becomes necessary for the owner to incur the services of an attorney to enforce any provision of this agreement without initiating litigation, the

contractor agrees to pay the owner's attorney's fees incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred, until the date paid by the losing party.

10.6 Execution. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will constitute one and the same instrument. Facsimile or email transmission of any signed original document will be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or email transmitted signatures by signing and delivering an original document. When Owner is exercising any consent, approval, determination, and/or similar discretionary action under this Agreement, the standard will be Owner's sole and unfettered discretion.

10.9 Cooperation. The Parties agree to cooperate in good faith to timely implement the purposes of this Agreement and complete the Project. Any consents or approval required to be given in connection with this Agreement shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be binding and effective for all purposes as of the Effective Date.

OWNER:

By: _____

Its: _____

CONTRACTOR:

By: _____

Its: _____

Exhibit A

Project Description and Summary of the Work

The Project includes procurement and replacement of a ladder to access the floating dock and procurement and installation of marine camels along the dock face as directed by Owner and Engineer. Work to be completed under the project is as designed in the plans prepared by the Engineer. The work shall be done in accordance with the Contract Documents, and requirements of the Connect Oregon Grant Agreement. The Work will be completed in a timely manner and within the Project schedule.

GENERAL CONDITIONS OF THE CONTRACT

[attached]

SUPPLEMENTARY CONDITIONS OF THE CONTRACT

SC-1 Insurance.

A. In addition to the insurance requirements under the state grant award in connection with the work to be completed under the Contract, Contractor will furnish and maintain insurance in connection with the Contract, at the bidder's sole cost and expense, the detailed provisions of which are set forth in this SC-1. All insurance policies must include Owner and its officers, directors, shareholders, employees, representatives and volunteers and the Engineer as an Additional Insured and Loss Payee, and also provide a waiver of subrogation against Owner.

1. Contractor and all subcontractors shall maintain, at its expense during the life of the Contract, the following minimum insurance in companies that are acceptable to Owner and are licensed to do business in the State of Oregon:

a. *Workmen's Compensation:* Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract that are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$1,000,000 each accident.

b. *Comprehensive General Liability:* Contractor shall maintain Comprehensive and General Liability insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent), subject to the following minimum limits:

Bodily injury \$2,000,000 each person including death
 \$2,000,000 each occurrence

Property damage \$2,000,000 each occurrence
 \$4,000,000 aggregate operations
 \$4,000,000 aggregate protective
 \$4,000,000 aggregate product
 \$4,000,000 aggregate contractual

Coverage shall include Contractual Liability insurance for the indemnity provided under this contract.

c. *Comprehensive Automobile Liability:* The Contractor shall maintain Comprehensive Automobile Liability insurance covering all owned, hired, and non-owned vehicles subject to the following minimum limits:

Bodily injury \$2,000,000 each person including death

\$2,000,000 each occurrence

Property damage \$2,000,000 each occurrence

- d. *Umbrella Excess Liability*: The Contractor must have, and provide Owner with a copy of an Umbrella Excess Liability in the amount of and which provides limits of insurance not less than \$1,000,000.00 in excess over the underlying policies of Employers' Liability, Commercial General Liability, and Commercial Auto Liability. Coverage shall provide a waiver of subrogation for, and name, the Owner, Owner's Representatives, and the State of Oregon, as Additional Insureds.
 - e. *Builders Risk insurance*: Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form to cover the course of construction in the amount of the initial Contract Sum, plus the value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than Owner has an insurable interest in the property required by this Section to be covered, whichever is later. This insurance shall include interests of Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. Each loss may be subject to a deductible. Losses up to the deductible amount or otherwise not covered by insurance shall be the responsibility of the Contractor. The policy shall be endorsed to allow complete or partial occupancy by Owner before or after Substantial Completion without the insurer's approval. The Builders Risk Policy may NOT EXCLUDE or limit coverage for said property.
2. Contractor shall submit to Owner one (1) copy of its insurance policies evidencing the insurance required herein. The Comprehensive General Liability policy must state specifically that contractual liability coverage is provided for the indemnity provision. All policies must state that thirty (30) days advance written notice shall be given Owner prior to cancellation or material modification in the required insurance.

B. Contractor will be required to furnish and maintain insurance in connection with the Connect Oregon Grant Agreement. The liability coverages, except any professional liability and workers compensation/employers liability, if included, must endorse "State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation, and their respective officers, members, agents, and employees" as endorsed additional insured.

SC-2 Connect Oregon Indemnification Obligation.

- i. Contractor will indemnify, defend, save and hold harmless State of Oregon, the Oregon Transportation Commission and its members, the Department of Transportation, their officers, agents and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or

hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to this Agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of Contractor and Owner that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by Contractor from and against any and all Claims.

- ii. Neither Contractor, nor Contractor's contractor(s) nor subcontractor(s), nor any attorney engaged by Contractor's contractor(s) nor subcontractor(s) shall defend any claim in the name of ODOT or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor is prohibited from defending the State, or that Contractor is not adequately defending the State's interests, or that an important governmental principle is at issue or that it is in the best interests of the State to do so. The State reserves all rights to pursue claims it may have against Contractor if the State of Oregon elects to assume its own defense.

SC-3. Oregon Public Contracting Code Requirements.

1. Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the Work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor.
 - (a) ORS 279C.580(3)(a) requires the prime Contractor to include a clause in each subcontract requiring Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten (10) days out of such amounts as are paid to the prime Contractor by the public contracting agency; and
 - (b) ORS 279C.580(3)(b) requires the prime Contractor to include a clause in each subcontract requiring Contractor to pay an interest penalty to the first-tier Subcontractor if payment is not made within thirty (30) days after receipt of payment from the public contracting agency.
 - (c) ORS 279C.580(4) requires the prime Contractor to include in every subcontract a requirement that the payment and interest penalty clauses required by ORS 279C.580(3)(a) and (b) be included in every contract between a Subcontractor and a lower-tier Subcontractor or Supplier.
2. Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract, and shall be responsible that all sums due the State Unemployment Compensation Fund from Contractor or any Subcontractor in connection with the performance of the contract shall promptly be paid.
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted.

4. A notice of claim on Contractor's payment bond shall be submitted only in accordance with ORS 279C.600 and 279C.605.
5. Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
6. The Contractor shall demonstrate to the Owner that an employee drug-testing program is in place within ten (10) days of receiving a Notice of Award. In accordance with ORS 279C.505(2),. The Contractor may attach hereto a written description of the Contractor's drug testing program, or a copy of the adopted drug-testing program, to comply with this condition.
7. Pursuant to ORS 279C.515, if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Owner may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due to Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or its surety from their obligations with respect to any unpaid claim. If Owner is unable to determine the validity of any claim for labor or material furnished, Owner may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid.
8. Pursuant to ORS 279C.515, if the Contractor or a first-tier Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from Owner or Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10 day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that includes Oregon on the date that is thirty (30) days after the date when payment was received from the public contracting agency or from the Contractor, but the rate of interest shall not exceed thirty (30) percent. The amount of interest may not be waived.
9. As provided in ORS 279C.515, if the Contractor or a Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
10. Pursuant to ORS 279C.530, Contractor shall promptly, as due, make payment to any person, co-partnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
11. Contractor shall employ no person for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency, or where public policy

absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, Contractor shall pay the employee at least time and one-half pay for all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the Work is five (5) consecutive days, Monday through Friday; or for all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the Work week is 4 consecutive days, Monday through Friday; and for all Work performed on Saturday and on any legal holidays as specified in ORS 279C.540.

12. Pursuant to ORS 279C.540(2), the Contractor must give notice to employees who Work on this contract in writing, either at the time of hire or before commencement of Work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to Work.

13. The provisions of ORS 279C.800 to ORS 279C.870 relating to the prevailing wage rates will be complied with.

(a) The hourly rate of wage to be paid by Contractor or any Subcontractor to workers in each trade or occupation required for the public works employed in the performance of this Contract shall not be less than the specified minimum rate of wage in accordance with ORS 279C.838 and ORS 279C.840.

(b) The latest prevailing wage rates for public works contracts in Oregon are contained in the following publications: Prevailing Wage Rates for Public Works Projects in Oregon, including any amendments. Such publication can be reviewed electronically at:

<https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx> and are hereby incorporated as part of the contract documents.

(c) Contractor and all Subcontractors shall keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.

(d) The Owner shall pay, has paid, or will cause to be paid a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner as required by the administrative rules adopted by the Commissioner.

(e) If Contractor or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it shall post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice shall contain information on how and where to make claims and where to obtain future information.

14. Unless exempt under ORS 279C.836(4), (7), (8) or (9), before starting Work on this contract, or any subcontract hereunder, Contractor and all Subcontractors must have on file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in the State of Oregon in the amount of \$30,000. The bond must provide that the Contractor or Subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. The bond must be a continuing obligation,

and the surety's liability for the aggregate of claims that may be payable from the bond may not exceed the penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid under ORS 279C.836(2), unless the surety sooner cancels the bond. The surety may cancel the bond by giving thirty (30) days' Written Notice to the Contractor or Subcontractor, to the Construction Contractors Board and to the Bureau of Labor and Industries. When the bond is canceled, the surety is relieved of further liability for Work performed on contracts entered into after the cancellation. The cancellation does not limit the surety's liability for Work performed on contracts entered into before the cancellation. Contractor further certifies that Contractor will include in every subcontract a provision requiring a Subcontractor to file a public works bond with the Construction Contractors Board before starting Work on the Project, unless exempt under ORS 279C.836(4), (7), (8), or (9).

(a) Unless exempt under ORS 279C.836(4), (7), (8), or (9), before permitting a Subcontractor to start Work on this public works project, the Contractor shall verify that the Subcontractor has filed a public works bond as required under this section or has elected not to file a public works bond under ORS 279C.836(7).

(b) Unless the Owner has been notified of any applicable exemptions under ORS 279C.836(4), (7), (8), or (9), the public works bond requirement above is in addition to any other bond Contractor or Subcontractors may be required to obtain under this contract.

15. As may be required by ORS 279C.845, Contractor or Contractor's surety and every Subcontractor or Subcontractor's surety shall file certified payroll statements with the Owner in writing.

(a) If Contractor is required to file certified statements under ORS 279C.845, the Owner shall retain twenty-five (25) percent of any amount earned by the Contractor on the public works project until the Contractor has filed with the Owner a certified statement as required by ORS 279C.845. The Owner shall pay the Contractor the amount retained within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements required by statute. The Owner is not required to verify the truth of the contents of certified statements filed by the Contractor under this section and ORS 279C.845.

(b) The Contractor shall retain twenty-five (25) percent of any amount earned by a first-tier Subcontractor on this public works contract until the Subcontractor has filed with the Owner certified statements as required by ORS 279C.845. The Contractor shall verify that the first-tier Subcontractor has filed the certified statements before the Contractor may pay the Subcontractor any amount retained. The Contractor shall pay the first-tier Subcontractor the amount retained within fourteen (14) days after the Subcontractor files the certified statements as required by ORS 279C.845. Neither the Owner nor the Contractor is required to verify the truth of the contents of certified statements filed by a first-tier Subcontractor.

16. All employers, including contractors, that employ subject workers who Work under this contract shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

17. All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly paid.
18. The contract may be canceled at the election of the owner for any willful failure on the part of the contractor to faithfully perform the contract according to its terms.
19. Contractor certifies that it has not and will not discriminate against minorities, women or emerging small business enterprises in obtaining any required Subcontractors, or against a business enterprise that is owned or controlled by, or that employs a disabled veteran as defined in ORS 408.225.
20. The contractor certifies its compliance with the Oregon tax laws, in accordance with ORS 305.385.
21. In the performance of this contract, the Contractor shall use, to the maximum extent economically feasible, recycled paper, materials, and supplies, and shall compost or mulch yard waste material at an approved site, if feasible and cost effective.
22. As may be applicable, Contractor certifies that all Subcontractors performing construction Work under this contract will be registered with the Construction Contractors Board or licensed by the state Landscaping Contractors Board in accordance with ORS 701.035 to ORS 701.055 before the Subcontractors commence Work under this contract.
23. Pursuant to OAR 137-049-0880, the Owner may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the records relating to the Contract.
24. Pursuant to ORS 279C.510, if feasible and cost-effective and the contract is for demolition, the contractor shall salvage or recycle construction and demolition debris.
25. Pursuant to ORS 279C.510, if feasible and cost-effective and contract is for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site.
26. In conformance with ORS 279C.525, the attention of the Contractor is called to statutes, ordinances or regulations of the federal government, the State of Oregon and local agencies dealing with the prevention of environmental pollution of water and air and the preservation of natural resources that affect the performance of the contract.

The Contractor shall carry out the Contractor's operations in conformity with the applicable sections of federal, state and local statutes, ordinances and all regulations that are adopted pursuant thereto. If the Contractor is delayed or must undertake additional work by reason of the enactment of new or the amendment of existing statutes, ordinances or regulations relating to the prevention of environmental pollution and the preservation of natural resources occurring after the submission of the successful bid, Owner shall grant a time extension and issue a change order setting forth the additional work that must be undertaken. The change order shall not invalidate the contract and there shall be, in addition to a reasonable extension of the Contract Time, a reasonable adjustment in the contract price to compensate the

Contractor for all costs and expenses incurred, including overhead and profits, as a result of such delay or additional work.

In compliance with the provisions of ORS 279C.525, the following is a list of federal, state and local agencies, of which the Owner has knowledge, that have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of the contract:

Federal Agencies

Agriculture, Department of

Forest Service

Soil Conservation Service

Defense, Department of

Army Corps of Engineers

Environmental Protection Agency

Interior, Department of

Bureau of Sport Fisheries and Wildlife o Bureau of Outdoor Recreation

Bureau of Land Management

Bureau of Indian Affairs

Bureau of Reclamation

Labor, Department of

Occupational Safety and Health Administration

Transportation, Department of

Federal Highway Administration

Homeland Security, Department of

Coast Guard

State Agencies:

Agriculture, Department of

Environmental Quality, Department of

Fish and Wildlife, Department of

Forestry, Department of

Geology and Mineral Industries, Department of

Human Resources, Department of

Land Conservation and Development Commission

Soil and Water Conservation Commission

State Engineer

State Land Board

Water Resources Board

Local Agencies

City Councils

County Court

Board of County Commissioners

Water Districts

Sanitary Districts

Fire Protection Districts

27. Once before the first payment and once before final payment is made of any sum due on account of the contract for a public work, Contractor or Contractor's surety and every Subcontractor with a Subcontractor's surety, shall file a statement with Owner in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each classification of worker which Contractor or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract, which certificate and statement shall be verified by the oath of Contractor or Contractor's surety or Subcontractor or the Subcontractor's surety, that Contractor or Subcontractor has read such statement and certificate, knows the contents thereof, and that the same is true to Contractor's or Subcontractor's knowledge. A true copy of the certification or certifications required to be filed pursuant to this section shall also be filed at the same time with the Commissioner of the Bureau of Labor and Industries.
28. The following notice is applicable to Work involving excavation. "ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987."

SC-4. Maintenance of Tenant Operations:

A. The Contractor must provide for uninterrupted continuance of any ship-to-shore transfer operations during construction. The Contractor must coordinate all Work with Owner to ensure that construction activities do not impact cargo loading and offloading, and storage / traffic flow. Project requirements include, but are not necessarily restricted to, the following: (1) during Tenant vessel loading or offloading operations, equipment traffic is prohibited outside of designated work areas without express approval of Owner. Limited personnel traffic is allowed via the main security gate entrance. On-site laydown and storage must be coordinated with Owner to ensure no adverse impact to tenant operations. Contractor will be notified at least 3days in advance of any scheduled ship-to-shore- transfer operations.

PERFORMANCE BOND

Bond No.

Solicitation: N/A

Project Name: **KO'KWEL WHARF Dock Access Work**

(Surety #1) Bond Amount No. 1: \$ _____

(Surety #2)* Bond Amount No. 2:* \$ _____

** If using multiple sureties* Total Penal Sum of Bond: \$ _____

We, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the State of Oregon the sum of (Total Penal Sum of Bond) (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with Mith-ih-Kwuh Economic Development Corporation, the plans, specifications, terms and conditions of which are contained in the above-referenced Project;

WHEREAS, the terms and conditions of the contract, together with applicable plans, special specifications, schedule of performance, and schedule of contract prices, and CO Grant Agreement, and the applicable regulations of the foregoing, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless Mith-ih-Kwuh Economic Development Corporation and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall Mith-ih-Kwuh Economic Development Corporation be obligated for the payment of any premiums.

This bond is given and received under authority of _____, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this _____ day of _____, 2025.

PRINCIPAL: _____

SURETY: _____

By: _____
Signature

BY ATTORNEY-IN-FACT:

Official Capacity

Name

Attest: _____
Corporation Secretary

Signature

Address

City

State, Zip

Phone: _____

PAYMENT BOND

Bond No.

Solicitation

Project Name: **KO'KWEL WHARF Dock – Access Work**

(Surety #1) Bond Amount No. 1: \$ _____

(Surety #2)* Bond Amount No. 2: \$ _____

* *If using multiple sureties* Total Penal Sum of Bond:\$

We, _____, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Mith-ih-Kwuh Economic Development Corporation the sum of (Total Penal Sum of Bond) (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with Owner the plans, specifications, terms and conditions of which are contained in above-referenced Project;

WHEREAS, the terms and conditions of the contract, together with applicable plans, special specifications, schedule of performance, and schedule of contract prices, and the CO Grant Agreement, and the applicable regulations of the foregoing, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called “Contract”); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Mith-ih-Kwuh Economic Development Corporation and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the State on account of any labor or materials

furnished; and shall do all things required of the Principal by the laws of this State then this obligation shall be void; otherwise, it shall remain in full force and effect. Nonpayment of the bond premium will not invalidate this bond nor shall Mith-ih-Kwuh Economic Development Corporation be obligated for the payment of any premiums. This bond is given and received under authority of ORS 279C.380, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this _____ day of _____, 2025.

PRINCIPAL: _____

SURETY: _____

By: _____
Signature

BY ATTORNEY-IN-FACT:

Official Capacity

Name

Attest: _____
Corporation Secretary

Signature

Address

City

State, Zip

Phone: _____

CERTIFICATE OF COMPLIANCE

Mith-ih-Kwuh Economic Development Corporation

Attn: Brady Scott, President of Economic Development

North Bend, Oregon, 97459

PROJECT NAME: KO'KWEL WHARF Dock – Access Work

PROJECT LOCATION: Ko'Kwel Wharf, North Bend, Oregon

I hereby certify that:

- A. All work on the above referenced contract has been performed and materials supplied in accordance with the plans, specifications and contract documents for the above work;
- B. There have been no unauthorized substitutions of Subcontractors; nor have any subcontracts been entered into without the names of the subcontractors having been submitted to and approved by Owner prior to the start of such subcontracted work;
- C. No subcontract was assigned or transferred or performed by any Subcontractor other than the original Subcontractor, without prior notice having been submitted to and approved by Owner together with the names of all Subcontractors;
- D. All Subcontractors performing work described in ORS 701.005(2) (i.e., construction work) were registered with the Construction Contractors Board in accordance with ORS 701.026 to 701.035 before the Subcontractors commenced work under the contract;
- E. All claims for material and labor and other service performed in connection with these specifications have been paid;
- F. All money due the State Industrial Accident Fund, the State Unemployment Compensation Trust Fund, the State Tax Commission (in accordance with ORS 305.385 and ORS 279C.530), hospital associations and/or others have been paid.

CONTRACTOR:
[name of Contractor]

By: Authorized Signature
Its:

Dated: _____

**PART III
SPECIAL PROVISIONS**

None.

**PART IV
CONSTRUCTION PLANS AND SPECIFICATIONS**

Plans

