

City of Lake Stevens

REQUEST FOR BIDS

Homeless Encampment Biohazard Removal, Disposal & Structure Demolition

Revision: 31 March 2016

Project No: 16037

The City of Lake Stevens requests interested parties to submit bids to provide services to support City clean-up of homeless encampments within the City limits. Services will be performed on a site by site approval based through 31st December 2017.

Scope of Work

Overview: As directed by the City, Service Provider shall provide turnkey homeless encampment site clean-up to remove biohazardous material and other encampment waste material to provide a safe and clean site.

Site Conditions: Sites are considered to contain a variety of materials that may contain hazardous materials including bio-hazardous; garbage and general debris; human waste; constructed temporary shelter; and other items associated with homeless occupancy.

Site Locations: Site will be identified individually. City will make efforts to cluster when possible several sites. Sites include under structures (eq: Bridge); forested open area; vegetated ground cover; abandon structures (houses, sheds, outbuildings); and scrap material and/or tent build shelter.

Property may be public or privately owned. The City will be responsible to give access to the site.

Biohazard Handling: Site supervisor and workers must be trained and certified in handling and disposal of hazardous materials. Service Provider is to provide copies of any applicable training records, certifications, and licenses required to perform this work.

Structure Demolition: Some work may require the removal of wood frame or concrete block structures. This may include asbestos analysis, removal, and disposal. The Service Provider is responsible to obtain the permits. City will waive fees for City permits.

Hours of Work: 7:00 AM to 5:00 PM Monday through Friday. Weekends may be considered if approved in writing (email acceptable) by the City.

Service Provider's Duties and Responsibilities:

1. Clean-up duties shall include surveying sites, collecting debris, dismantling temporary structures, removal of trash, removal of human waste, and State

approved handling and removal of all removed material. Disposal shall be at a site permitted to accept such materials.

2. Service Provider shall supply all labor, material, tools, protective clothing and gear, and equipment that is require or needed to perform the work to handle, remove, transport, and dispose of the waste materials and leave a clean site.
3. Service Provider shall coordinate with the City on a site-by-site basis to determine the work order for each encampment clean-up. The work order will establish the site start date, estimated timeframe of work, staging area, traffic control if required, and name of the onsite representative.
4. Service Provider is responsible for the supervision and management of its crew and sub consultant and ensure all necessary safety procedures are followed. This individual will serve as the City's contact.
5. Service Provider shall photograph the encampment site before and after cleaning and provide electronic copy of each photograph to the City.
6. Service Provider shall notify the City when the work is complete and provide a clean-up report for each site including total weight of debris removed.
7. In the event that an adjacent homeless encampment is discovered in the general area during the course of a project, the Service Provider shall notify the City's designated representative to obtain authorization prior to proceeding with any additional work that was not identified in the work scope.
8. Service Provider shall follow best practices work procedures to safely manage any hazardous materials found on the jobsite, including urine, feces, soiled personal hygiene items, syringes, and other materials which could pose a health threat.
9. Service Provider shall trim shrubs and vegetation as required by the City as a deterrent measure for future encampment.
10. For abandon building encampment where the City directs demolition of the building the Service Provider must perform an asbestos review of the site and provide a report on the findings with an asbestos mitigation plan with a cost estimate for the mitigation and demolition of the structure to the City. The City will review and decide on how to proceed. If the Service Provider is directed to proceed with the abatement and demolition of the building, asbestos mitigation and disconnection of all service utilities must be performed before demolition can proceed.
11. Service Provider shall immediately contact the Lake Stevens Police Department through 911 if a weapon is found.
12. Service Provider is to perform work in a timely and efficient manner and conduct themselves in a courteous and business-like manner at all times.
13. Service Provider shall properly handle and dispose of solid waste and hazardous waste in accordance with all applicable laws.

City Responsibilities

1. Issue a work order with a minimum of one week notification to the Service Provider to start time of a cleanup project.
2. Provide security during the positing of the "Notice to Vacate" and provide services if requested during clean-up.
3. Provide a City representative to serve as a point of contact for reviewing work orders, authorizing work, addressing Service Provider issues and questions.
4. Post "Notice to Vacate" signs at the work site 72 hours prior to the commencement of each removal project. City will photograph notices to document time and location of posting.

Occupants: All sites will be cleared by Lake Stevens Police Department prior to access to site by service provider.

Payment: Work shall be performed under a force account (time and material). Service Provide shall provide to the City documentation of employees hours; sub-consultants costs; equipment and material costs; and disposal costs.

Prevailing Wages: Prevailing wages are required on this project. An intent to Pay Prevailing Wages is required to be submitted to the City at the beginning of the contract. An Affidavit of Wages Paid is required to be submitted to the City after each work order performed under this contract.

Business License: Contractor is required to obtain a City Business License prior to performing work within the City.

Bid Submittal: Must be received by the City by 6th April at 4:00pm at the City Hall located at 1812 Main Street, PO BOX 257 Lake Stevens, WA 98258 or emailed to awells@lakestevenswa.gov. Bids received after the deadline will not be considered.

Bid must include name of company, contact information, contractor's license number. The bid is to be provided as a Lump Sum and shall include all applied taxes.

Bid Process: The City will review bids received by the submission deadline. The review panel will select the bid of the lowest responsible bidder. Non-responsive bids will not be considered. The City reserves the right to reject any and all bids. The bidder must complete the Bid Proposal section on this document. The City reserves the right to reject any and all bids.

Execution of Contract: The City may at its discretion selected to implement only one or more bid items and a single quantity or more throughout the term of the contract. Some bid items may never be implemented during the term of this contract. The estimated quantities shown on the bid proposal are for the purpose to evaluate each bid for determination of the lowest responsive bid.

City Project Representative:

Scott Wicken, Public Works Superintendent - 425-212-3312
swicken@lakestevenswa.gov

Bid Item 1 – **Site Assessment** – Surveying a site, taking pre-cleanup photos, and preparation of a site work order (The work order will establish the site start date, estimated timeframe of work, staging area, traffic control if required, and name of the onsite representative.). Any site mobilization costs for this bid item must be included in this bid item.

Unit: Per Site

Bid Item 2 – **Site Cleanup Mobilization** – Single mobilization for each site (only one payment per site regardless of how many days a single site cleanup may require) to cover all pre-site work setup up times, site travel times, planning, other tasks to get to the site ready to perform site cleanup.

Unit: Per Site

Bid Item 3 – **Bio-hazard Technician** – Includes prevailing wage labor, containment of bio-hazardous waste, transient debris, or any litter that poses health and safety risk, removal of contaminated contents, personal protective equipment, consumable supplies, administrative fees, and photo documentation.

Unit: Per Hour

Bid Item 4 – **Biohazard Material Disposal** – Containment, transportation, and disposal of biohazard material off site per 40 gallon containment unit.

Unit: Each

Bid Item 5 – **Non-biohazard Material Disposal** - Containment, transportation, and disposal of non-biohazard material off site based on weight.

Unit: Ton

Bid Item 6 – **Asbestos Assessment** - survey a structure and provide an assessment report that provides findings, estimated timeframe of work, and a cost proposal to perform the asbestos removal and disposal and site cleanup associated with asbestos removal work. Any site mobilization costs for this bid item must be included in this bid item.

Unit: Per Site

Bid Item 7 – **Asbestos Abatement** – the scope of work and cost will be based a City approved Asbestos Assessment.

Unit: Force Account

Bid Item 8 – **Demolition Assessment** - survey a structure and provide estimated timeframe of work and a cost proposal to perform the demolition and disposal of structure off site, site cleaning, and any associated utility work. Any site mobilization costs for this bid item must be included in this bid item.

Unit: Per Site

Bid Item 9 – **Demolition of Structure** - the scope of work and cost will be based a City approved Demolition Assessment.

Unit: Force Account

City of Lake Stevens

**Bid Proposal for
Homeless Encampment Biohazard Removal and Disposal**

The following proposal is for Homeless Encampment Biohazard Removal and Disposal as described in this Request for Bids.

Note: The City may at its discretion selected to implement only one or more bid items and a single quantity or more throughout the term of the contract. Some bid items may never be implemented during the term of this contract. The estimated quantities shown on the bid proposal are for the purpose to evaluate each bid for determination of the lowest responsive bid.

Description	Unit	Unit Proposal	Est Qty	Total Proposal
Bid Item 1 – Site Assessment –	Per Site	\$_____ x	12	\$_____
Bid Item 2 – Site Cleanup Mobilization –	Per Site	\$_____ x	12	\$_____
Bid Item 3 – Bio-hazard Technician –	Per Hour	\$_____ x	160	\$_____
Bid Item 4 – Biohazard Material Disposal –	Each	\$_____ x	100	\$_____
Bid Item 5 – Non-biohazard Material Disposal -	Ton	\$_____ x	100	\$_____
Bid Item 6 – Asbestos Assessment -	Per Site	\$_____ x	2	\$_____
Bid Item 7 – Asbestos Abatement –	FC	NA x	0	NA
Bid Item 8 – Demolition Assessment -	Per Site	\$_____ x	2	\$_____
Bid Item 9 – Demolition of Structure -	FC	NA x	0	NA
SUB- TOTAL				\$_____
Sales tax (8.6%)				\$_____
TOTAL BASE BID (Sub-Total + Sales Tax)				\$_____

Bid Proposal (Continued) for Homeless Encampment Biohazard Removal and Disposal

If awarded this bid, I will be able to perform this project.

Company: _____ Email: _____

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____ 2016

Print Name: _____ Phone: _____

References: Please provide at least two services provided to a government agency similar to this contract for services for the cleaning of homeless encampment sites:

Agency: _____ Dates: _____

Contract Person: _____ Phone: _____

Email: _____

Agency: _____ Dates: _____

Contract Person: _____ Phone: _____

Email: _____

Bid Proposal must be provided to the City by **4:00 PM** on **7 April 2016**, late submittals will not be accepted. Email, FAX and mailed bids will be accepted using the following methods:

Email: Amanda Wells at awells@lakestevenswa.gov

FAX: (425) 212-3328 attn. Amanda Wells

Mail: 1812 Main Street P.O. Box 257, Lake Stevens, WA 98258 attn. Amanda Wells

The successful bidder will be required to execute a contract substantially in the form attached as Attachment A

SMALL PUBLIC WORKS CONTRACT

THIS SMALL PUBLIC WORKS CONTRACT (“Contract”) is made and entered into this _____ day of _____, 20____, by and between Contractor Name (“Contractor”) and the City of Lake Stevens, a municipal corporation (“City”).

WHEREAS, RCW 39.04.155 authorizes local governments to contract for public works having an estimated cost of \$300,000 or less by soliciting quotations (referred to herein as Bid Proposals) from contractors on the appropriate small works roster; and

WHEREAS, the City has by Resolution 2007-24 adopted procedures to implement the provisions of RCW 39.04.155 as required by law; and

WHEREAS, the City has contracted with Municipal Research and Services Center (“MRSC”) to use MRSC Rosters in lieu of maintaining its own small works roster; and

WHEREAS, the City desires to accomplish certain public works entitled Homeless Encampment Biohazard Removal and Disposal (“the Project”) having an estimated cost \$300,000 or less using the small works roster procedures; and

WHEREAS, the City solicited written Bid Proposals for the Project from

all contractors on the appropriate MRSC small works roster

at least five contractors on the appropriate MRSC small works roster who have indicated the capability of performing the kind of work being contracted; and

WHEREAS, whereas the City received and reviewed written Bid Proposals for the Project, and has determined that Contractor is the lowest responsible bidder; and

WHEREAS, the Contractor and the City desire to enter into this Contract for the Project in accordance with the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the terms, conditions and agreements contained herein, the City and Contractor agree as follows:

1. Scope of Work—the Project.

The Contractor shall perform, carry out and complete the Project in accordance with this Contract and the incorporated Contract Documents specified in Section 2. The Project shall be completed no later than Date.

2. Contract Documents.

In addition to Contractor’s attached Bid Proposal, the following documents are incorporated into the Contract by this reference:

- a. Request for Proposal/Bid
- b. Plans and Contract Drawings.

- c. Scope of Work.
- d. 2014 Standard Specifications for Road, Bridge, and Municipal Construction (WSDOT/APWA) (“Standard Specifications”) (referenced but not attached).
- e. 2010 APWA Supplement General Special Provisions (referenced but not attached).
- f. Addenda (**if any**).
- g. Payment and Performance Bond (attached).
- h. Retainage Bond (attached) (**optional-see Section 5**).

In the event of any inconsistencies or conflicts between the language of this Contract and these incorporated documents, the language of the Contract shall prevail over the language of the documents.

3. Commencement of Work.

Work shall not proceed under this Contract until the Contractor has met following conditions:

- a. The Contract has been signed and fully executed by the parties.
- b. The Contractor has provided the City with the certificates of insurance required under Section 22.
- c. The Contractor has obtained a City of Lake Stevens Business License.
- d. The Contractor has provided the City with satisfactory documentation that Contractor is licensed and bonded as a contractor in the Washington State.

These conditions shall be satisfied within ten (10) calendar days of the City’s Notice of Award of the Contract to the Contractor. Upon satisfaction of these conditions, the City shall issue a Notice to Proceed and Contractor shall commence work within five (5) calendar days of the date of said Notice.

4. Time is of the Essence/Liquidated Damages.

Time is of the essence in the performance of this Contract. The Contractor shall diligently pursue the Project work to physical completion by the date specified in Section 1. If said work is not completed within the time specified, the Contractor agrees to pay the City as liquidated damages the sum set forth in Section 1-08.9 of the Standard Specifications for each and every calendar day said work remains uncompleted after expiration of the specified time.

5. Payment for Project.

- a. Total Contract Sum for Project. Excluding approved changes orders, the City shall pay the Contractor for satisfactory completion of the Project under the Contract a total Contract Sum not to exceed \$Dollar Amount in accordance with the bid price in Contractor’s Bid Proposal and including all applicable Washington State Sales Tax. The total Contract Sum includes all expenses and costs incurred in planning, designing and constructing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, permits, subcontractors, consultants, and professional services necessary to construct and complete the Project.
- b. Payments shall be for Performance of Project Work. Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the City. No payment shall be made for any work rendered by the Contractor except as identified and set forth in this Contract.

c. Right to Withhold Payments if Work is Unsatisfactory. If during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract, the Contractor shall correct or modify the required work to comply with the requirements of the Contract. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract.

d. Payments. Progress payments shall be based on the timely submittal by the Contractor of the City's standard payment request form. The form shall be appropriately completed and signed by the Contractor. Applications for payment not signed and/or completed shall be considered incomplete and ineligible for payment consideration. The City shall initiate authorization for payment after receipt of a satisfactorily completed payment request form and shall make payment to the Contractor within approximately thirty (30) calendar days thereafter.

e. Payments for Alterations and/or Additions. Requests for changes orders and/or payments for any alterations in or additions to the work provided under this Contract shall be in accordance with the change order process set forth in Section 1-04.4 of the Standard Specifications.

f. Final Payment. Pursuant to RCW Chapter 60.28, a sum equal to five percent (5%) of the monies earned by the Contractor will be retained from payments made by the City to the Contractor under this Contract. This retainage shall be used as a trust fund for the protection and payment (1) to the State with respect to taxes imposed pursuant to RCW Title 82 and (2) the claims of any person arising under the Contract.

Monies retained under the provisions of RCW Chapter 60.28 shall, at the option of the Contractor, be:

- i. Retained in a fund by the City; or
- ii. Deposited by the City in an escrow (interest-bearing) account in a bank, mutual saving bank, or savings and loan association (interest on monies so retained shall be paid to the Contractor). Deposits are to be in the name of the City and are not to be allowed to be withdrawn without the City's written authorization. The City will issue a check representing the sum of the monies reserved, payable to the bank or trust company. Such check shall be converted into bonds and securities chosen by the Contractor as the interest accrues.

At or before the time the Contract is executed, the Contractor shall designate the option desired. The Contractor in choosing option (ii) agrees to assume full responsibility to pay all costs that may accrue from escrow services, brokerage charges or both, and further agrees to assume all risks in connection with the investment of the retained percentages in securities. The City may also, at its option, accept a bond in lieu of retainage.

Release of the retainage will be made sixty (60) calendar days following the Final Acceptance of the Project provided the following conditions are met:

- iii. A release has been obtained from the Washington State Department of Revenue.
- iv. Affidavits of Wages Paid for the Contractor and all Subcontractors are on file with the Contracting Agency (RCW 39.12.040).
- v. A certificate of Payment of Contributions Penalties and Interest on Public Works Contract is received from the Washington State Employment Security Department.

- vi. Washington State Department of Labor and Industries (per Section 1-07.10 of the Standard Specifications) shows the Contractor is current with payments of industrial insurance and medical premiums.
- vii. All claims, as provided by law, filed against the retainage have been resolved.
- viii. If requested by the City, the Contractor shall provide the City with proof that insurance required under Section 22 remains in effect.

g. Final Acceptance. Final Acceptance of the Project occurs when the Public Works Director has determined that the Project is one hundred percent (100%) complete and has been constructed in accordance with the Plans and Specifications.

h. Payment in the Event of Termination. In the event this Contract is terminated by the either party, the Contractor shall not be entitled to receive any further amounts due under this Contract until the work specified in the Scope of Work is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under the Contract exceeds the expense incurred by the City in finishing the work, and all damages sustained by the City or which may be sustained by the City or which may be sustained by the reason of such refusal, neglect, failure or discontinuance of Contractor performing the work, such excess shall be paid by the City to the Contractor. If the City's expense and damages exceed the unpaid balance, Contractor and his surety shall be jointly and severally liable therefore to the City and shall pay such difference to the City. Such expense and damages shall include all reasonable legal expenses and costs incurred by the City to protect the rights and interests of the City under the Contract.

i. Maintenance and Inspection of Financial Records. The Contractor and its subcontractors shall maintain reasonable books, accounts, records, documents and other evidence pertaining to the costs and expenses allowable, and the consideration paid under this Contract, in accordance with reasonable and customary accepted accounting practices. All such books of account and records required to be maintained by this Contract shall be subject to inspection and audit by representatives of City and/or of the Washington State Auditor at all reasonable times, and the Contractor shall afford the proper facilities for such inspection and audit to the extent such books and records are under control of the City, and all Project Contracts shall similarly provide for such inspection and audit rights. Such books of account and records may be copied by representatives of City and/or of the Washington State Auditor where necessary to conduct or document an audit. The Contractor shall preserve and make available all such books of account and records in its control for a period of three (3) years after final payment under this Contract, and Bunker Repair Project subcontracts shall impose similar duties on the subcontractors.

6. Term of Contract.

The term of this Contract shall commence upon full execution of this Contract by the City and Contractor and shall terminate on December 31, 2017, unless sooner terminated by either party under Section 7 or applicable provision of the Contract.

7. Termination of Contract.

a. Except as otherwise provided under this Contract, either party may terminate this Contract upon ten (10) working days' written notice to the other party in the event that said other party is in default and fails to cure such default within that ten-day period, or such longer period as provided by the non-defaulting party. The notice of termination shall state the reasons therefore and the effective date of the termination.

b. The City may also terminate this Contract in accordance with the provisions of Section 1-08.10 of the Standard Specifications.

8. Status of Contractor.

The Contractor is a licensed, bonded and insured contractor as required and in accordance with the laws of the State of Washington. Contractor is acting as an independent contractor in the performance of each and every part of this Contract. No officer, employee, volunteer, and/or agent of either party shall act on behalf of or represent him or herself as an agent or representative of the City. Contractor and its officers, employees, volunteers, agents, contractors and/or subcontractors shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency between Contractor and the City.

9. Permits.

The Contractor will apply for, pay for and obtain any and all City, county, state and federal permits necessary to commence, construct and complete the Project. All required permits and associated costs shall be included in the Total Contract Sum for Project.

10. Business License Required.

The Contractor shall obtain a City of Lake Stevens Business License prior to commencement of work under this Contract.

11. Work Ethic.

The Contractor shall perform all work and services under and pursuant to this Contract in timely, professional and workmanlike manner.

12. City Ownership of Work Products.

All work products (reports, maps, designs, specifications, etc.) prepared by or at the request of Contractor regarding the planning, design and construction of the Project shall be the property of the City. Contractor shall provide the City with paper and electronic copies of all work products in possession or control of Contractor at the request of final payment from Contractor or upon written request from the City.

13. Job Safety.

a. General Job Safety. Contractor shall take all necessary precaution for the safety of employees on the work site and shall comply with all applicable provisions of federal, state and local regulations, ordinances and codes. Contractor shall erect and properly maintain, at all times, as required

by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against known and unusual hazards.

b. Trench Safety Systems. The Contractor shall ensure that all trenches are provided with adequate safety systems as required by RCW Chapter 49.17 and WAC 296-155-650 and -655. The Contractor is responsible for providing the competent person and registered professional engineer required by WAC 296-155-650 and -655.

14. Prevailing Wages.

Contractor shall pay its employees, and shall require its subcontractors to pay their employees, prevailing wages as required by and in compliance with applicable state and/or federal law and/or regulations, including but not limited to RCW Chapter 39.12 and RCW Chapter 49.28. Prior to final payment under this Contract, Contractor shall certify in writing that prevailing wages have been paid for all work on the Project as required and in accordance with applicable law and/or regulations.

15. Taxes and Assessments.

The Contractor shall be solely responsible for compensating its employees, agents, and/or subcontractors and for paying all related taxes, deductions, and assessments, including, but not limited to, applicable use and sales taxes, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Contract.

16. Nondiscrimination Provision.

During the performance of this Contract, the Contractor shall comply with all applicable equal opportunity laws and/or regulations and shall not discriminate on the basis of race, age, color, sex, sexual orientation, religion, national origin, creed, veteran status, marital status, political affiliation, or the presence of any sensory, mental or physical handicap. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of work and services under this Contract. The Contractor further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Contractor understands that violation of this provision shall be cause for immediate termination of this Contract and the Contractor may be barred from performing any services or work for the City in the future unless the Contractor demonstrate to the satisfaction of the City that discriminatory practices have been eliminated and that recurrence of such discriminatory practices is unlikely.

17. The Americans with Disabilities Act.

The Contractor shall comply, and shall require its subcontractors to comply, with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA), and its implementing regulations, and Washington State's anti-discrimination law as contained in RCW Chapter 49.60 and its implementing regulations, with regard to the work and services provided pursuant to this Contract. The ADA provides comprehensive civil rights to individuals with disabilities in the area of employment, public accommodations, public transportation, state and local government services, and telecommunications.

18. Compliance With Law.

The Contractors shall perform all work and services under and pursuant to this Contract in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.

19. Guarantee of Work.

a. The Contractor guarantees and warrants all of its work, materials, and equipment provided and utilized for this Project to be free from defects for a period of one (1) year from the date of final acceptance of the Project work. The Contractor shall remedy any defects in its Project work, and the materials, and equipment utilized in the Project and pay for any damages resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the Project work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness.

b. The guarantee/warranty period shall be suspended from the time a significant defect is first documented by the City until the work or equipment is repaired or replaced by the Contractor and accepted by the City. In the event that fewer than ninety (90) calendar days remain in the guarantee period after acceptance of such repair or replacement (after deducting the period of suspension above), the guarantee period shall be extended to allow for at least ninety (90) calendar days guarantee of the work from the date of acceptance of such repair or equipment.

c. The Contractor shall also provide the City with manufacturer's warranties for all components, materials and equipment installed as part of the Project.

20. Contractor's Risk of Loss.

It is understood that the whole of the work under this Contract is to be done at the Contractor's risk, and that he has familiarized himself with all existing conditions and other contingencies likely to affect the work, and has made his bid accordingly, and that he shall assume the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion.

21. Indemnification and Hold Harmless.

a. The Contractor shall indemnify, defend and hold the City, its elected officials, agents, officers and/or employees harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses of any nature whatsoever (including all costs and attorneys' fees) to or by third parties arising from, resulting from or connected with the work and services performed or to be performed under this Contract by the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors to the fullest extent permitted by law and subject to the limitations provided below.

b. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City and/or its elected officials, agents, officers and/or employees, and (b) the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors, shall apply only to the extent of negligence of Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors.

c. The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW, as provided in RCW 4.24.115. The indemnification obligation under this Contract shall not be limited in any way by any limitation on the

amount or type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided the Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by the City and does not include, or extend to, any claims by the Contractor's employees directly against Contractor. The obligations of Contractor under this subsection have been mutually negotiated by the parties hereto, and Contractor acknowledges that the City would not enter into this Contract without the waiver thereof of Contractor.

d. Nothing contained in this section or Contract shall be construed to create a liability or a right of indemnification by any third party.

e. The provisions of this section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

22. Insurance.

The Contractor shall procure, and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors. Failure by the Contractor to maintain the insurance as required shall constitute a material breach of contract upon which the City may, after giving five (5) working days' notice to the Contractor to correct the breach, immediately terminate the Contract or at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, off set against funds due the Contractor from the City.

a. Minimum Scope of Insurance.

The Contractor shall obtain insurance of the types described below:

- i. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- ii. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 05 09. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- iv. Required. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-contractors in the work. Builders Risk insurance shall be on a all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for floor and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

b. Minimum Amounts of Insurance.

The Contractor shall maintain the following insurance limits:

- i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- iii. Required. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

c. Other Insurance Provisions.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance.

- i. The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.

d. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

e. Verification of Coverage.

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Throughout the term of this Contract, the Contractor shall provide the City with proof of insurance upon request by the City.

Required. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

f. Contractor's Insurance for Other Losses.

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or subcontractors as well as to any temporary structures, scaffolding and protective fences.

g. Subcontractors.

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certifications and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

h. Waiver of Subrogation.

The Contractor and the City waive all rights against each other, any of their subcontractors, lower tier subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

i. Notice of Cancellation of Insurance.

In the event that the Contractor receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Contractor shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.

23. Assignment and Subcontractors.

a. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.

b. The Contractor shall not subcontract any part of the services to be performed hereunder without first obtaining the consent of the City and complying with the provisions of this section.

c. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract documents.

d. The Contractor shall, before commencing any work, notify the City in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the City may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the City by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the City shall not constitute a waiver of any right of the City to reject defective work or work not in conformance with the contract documents. If the City, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.

e. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

f. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the City and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the City to pay or to assure payment of any monies due any subcontractor or assignee.

24. Severability.

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

25. Integration and Supersession.

This Contract sets forth all of the terms, conditions, and Contracts of the parties relative to the Project, and supersedes any and all such former Contracts which are hereby declared terminated and of no further force and effect upon the execution and delivery hereof. There are no terms, conditions, or Contracts with respect thereto except as provided herein, and no amendment or modification of this Contract shall be effective unless reduced to writing and executed by the parties. In the event of any conflicts or inconsistencies between this Contract and the Declaration, the terms of this Contract shall control in all cases.

26. Non-Waiver.

A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Contract shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any Contract, covenant or condition of this Contract, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such Contract, covenant, condition or right.

27. Survival.

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

28. Contract Representatives and Notices.

This Contract shall be administered for the City by the City's Contract Representative Barb Stevens, and shall be administered for the Contractor by the Contractor's Contract Representative Insert Name of Contractor Representative. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

To the City: City of Lake Stevens
 City Clerk
 1812 Main Street
 Lake Stevens, WA 98258-0257
 425-334-1012

To Contractor: Name and Title of Binding Officer
 Contractor Business Name
 Contractor Mailing Address
 City, State, Zip
 Phone Number

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

29. Third Parties.

The City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

30. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

31. Venue.

The venue for any action to enforce or interpret this Contract shall lie in the Superior Court of Washington for Snohomish County, Washington.

32. Attorney Fees

Should either the City or the Contractor commence any legal action relating to the provisions of this Contract or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses, and reasonable attorney fees.

33. Authority

The person executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on its behalf and to legally bind Contractor to all the terms, performances and provisions of this Agreement. The person executing this Contractor on behalf of the City represents and warrants that he or she has been fully authorized by the City to execute this Contractor on its behalf and to legally bind the City to all the terms, performances and provisions of this Contractor.

34. Counterparts.

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first hereinabove written.

CITY OF LAKE STEVENS

CONTRACTOR

By: _____
John Spencer, Mayor

By: _____

Printed Name

Title

Approved as to Form:

Grant K. Weed, City Attorney

Acknowledgement of Waiver of Contractor's Industrial Insurance Immunity:

City Signature

Contractor Signature