

**INVITATION TO BID  
CITY OF PORT ORCHARD  
POTTERY LIFT STATION PIPING REPLACEMENT  
PUBLIC WORKS PROJECT NO. PW2021-021  
JUNE 18, 2021**

Notice is hereby given that bids will be received for the Pottery Lift Station Piping Replacement Project. Interested parties should email or submit their proposals to:

City of Port Orchard Public Works Department  
216 Prospect Street  
Port Orchard, WA 98366  
RE: ITB – Pottery Lift Station Piping Replacement  
Or email:  
[publicworks@cityofportorchard.us](mailto:publicworks@cityofportorchard.us)

Proposals will be received until 1:00pm on July 2, 2021. No proposals time-stamped will be accepted after the above-stated time. Bid opening will be completed via Zoom at 1:30pm on July 2, 2021. Requests to be sent the zoom link to attend the bid opening need to be submitted to [cwattling@cityofportorchard.us](mailto:cwattling@cityofportorchard.us).

**Project Details**

**Site(s):** 2014 Pottery Ave. Port Orchard, WA 98366

**Scope of Work:** Removal of two (2)- 12” Ductile Iron sewage discharge piping and replacing with 12” HDPE in an active sewerage lift station. HDPE shall be in accordance with COPO specs (section 9.1.C.3). See Appendix A for description of associated work.

This project consists of work to be performed within 90 calendar days from Notice to Proceed date and consists of furnishing all materials, equipment, tools, labor and other work or items incidental theretofore.

**GENERAL TERMS AND CONDITIONS**

1. Per RCW 39.12.030, this is a prevailing wage contract and workers shall receive the prevailing wage rate as established by Labor and Industries (L&I).

The vendor is required to pay, at a minimum, the applicable prevailing wage rates to those employees performing services under the Contract. The applicable wage rates are set forth in the State of Washington Department of Labor and Industries Prevailing Wage Rate Schedule, RCW 39.12.020.

The project site is located in Kitsap County.

The prevailing wage schedule in effect for the work under the Contract will be the one in effect upon the prime contractor’s bid due date with these exceptions:

- If the project is not awarded within six (6) months of the bid due date, the award date (the date the contract is executed) is the effective date.

- If the project is not awarded pursuant to bids, the award date (the date the contract is executed) is the effective date.

The prime contractor bid due date is July 2, 2021.

It is the responsibility of the vendor to ensure the appropriate labor classification(s) are identified and that the applicable wage and benefit rates are taken into consideration when preparing their proposal according to these specifications.

The selected vendor must submit to the Department of Labor and Industries, a “Statement of Intent to Pay Prevailing Wages”. A copy of the certified Intent Statement must be submitted to the City prior to payment of the first invoice. The vendor will pay promptly, when due, all wages accruing to its employees.

All invoice or payment applications are required to bear the following signed statement: “I certify that wages paid under this contract are equal to or greater than the applicable wage rates set forth in the Washington State Prevailing Wage Rates for Public Works Contracts issued by the State of Washington Department of Labor and Industries.”

The selected vendor must submit to the Department of Labor and Industries an “Affidavit of Wages Paid” and a copy of an approved Affidavit must be submitted at the end of the contract to the City before the last payment or any retained funds will be released.

The cost of filing a Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid with the Department of Labor and Industries shall be at no additional cost to the City. The Director of the Department of Labor and Industries shall arbitrate all disputes of the prevailing wage rate, RCW 39.12.060 and WAC 296-127-060.

Look up the prevailing rates of pay, benefit, and overtime codes from this link:

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> A copy of the prevailing wage rates is available for viewing at the City of Port Orchard Department of Public Works. A hard copy will be mailed upon request.

For prevailing wage questions, contact the Department of Labor & Industries at PW1@Lni.wa.gov or 360-902-5335.

2. The company will submit the L&I approved Intent to Pay ***with*** the invoice. If there is more than one invoice, submit the Intent to Pay ***with*** the first invoice and submit the Affidavit ***with*** the last invoice. **We will not accept the invoice without the approved Intent to Pay from L&I.**
3. The successful bidder must have a City business license prior to award of contract and must be an active participant on the MRSC Small Works Roster for the City of Port Orchard. For more information regarding the MRSC, visit their website at [www.mrscrosters.org](http://www.mrscrosters.org).
4. A retainage of 5% will be held on all public improvement projects per RCW 60.28.011. The retainage will be released after the City is provided the Affidavit of Wages Paid and approval of the Department of Revenue. All expenses associated with the prevailing wage rules are the responsibility of the contractor.
5. The company is required to have the following liability insurance and list the City of Port Orchard as a “Named Insured” on the company’s policy.
  - a. \$1,000,000 Property Damage

- b. \$1,000,000 Bodily Injury
6. A Performance & Payment Bond at 100% of the Contract Value.
  7. A two-year Maintenance Bond at 20% of the Contract Value.
  8. Contractor Disqualification

A bidder will be deemed not responsible and the proposal rejected if the bidder does not meet the following responsibility criteria set forth in RCW 39.04.350:

    1. Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:
      - a. At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
      - b. Have a current state unified business identifier number;
      - c. If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;
      - d. Not be disqualified from bidding on any public works contract under [RCW 39.06.010](#) or [39.12.065\(3\)](#);
      - e. If bidding on a public works project subject to the apprenticeship utilization requirements in [RCW 39.04.320](#), not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;
      - f. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its web site. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption; and
      - g. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in [RCW 49.48.082](#), any provision of chapter 49.46, 49.48, or 49.52 RCW.
    2. A bidder may be deemed not responsible and the proposal rejected if:

- a. More than one proposal is submitted for the same project from a bidder under the same or different names;
- b. Evidence of collusion exists with any other bidder or potential bidder. Participants in collusion will be restricted from submitting further bids;
- c. The bidder, in the opinion of the Contracting Agency, is not qualified for the work or to the full extent of the bid, or to the extent that the bid exceeds the authorized prequalification amount as may have been determined by a prequalification of the bidder;
- d. An unsatisfactory performance record exists based on past or current Contracting Agency work or for work done for others, as judged from the standpoint of conduct of the work; workmanship; progress; affirmative action; equal employment opportunity practices; or Disadvantaged Business Enterprise, Minority Business Enterprise, or Women's Business Enterprise utilization;
- e. There is uncompleted work (Contracting Agency or otherwise) which might hinder or prevent the prompt completion of the work bid upon;
- f. The bidder failed to settle bills for labor or materials on past or current contracts;
- g. The bidder has failed to complete a written public contract or has been convicted of a crime arising from a previous public contract;
- h. The bidder is unable, financially or otherwise, to perform the work; or
- i. There are any other reasons deemed proper by the Contracting Agency.
- j. Contractor must meet all qualifiers/requirements as specified in Appendix A.

#### **Americans with Disabilities Act (ADA) Information**

The City of Port Orchard in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and activities. This material can be made available in an alternate format by emailing the Human Resources Department at [dlund@cityofportorchard.us](mailto:dlund@cityofportorchard.us) or by calling (360) 876-7014.

#### **Title VI Statement**

The City of Port Orchard in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award."

Notice is given to all potential bidders that any bid responses may be subject to release under the Public Records Act Chapter 42.56 RCW and the City may be required to disclose bid responses upon a request. Bidders are advised to mark any records believed to be trade secrets or confidential in nature as "confidential." If records marked as "confidential" are found to be responsive to the request for records, the City may elect to give notice to the bidder of the request so as to allow the bidder to seek a protective order from a Court. Please be advised, however, that any records deemed responsive to a public records request may be released at the sole discretion and without notice by the City.

All questions or comments regarding the bid or to schedule a walk thru to see lift station should be directed to Tony Lang at [tlang@cityofportorchard.us](mailto:tlang@cityofportorchard.us) or call 360.535.2490. Unauthorized contact

regarding this notice with other City employees may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City.

The award of the Contract will go to the qualified bidder submitting the lowest responsible bid. The City reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This notice does not obligate the City to pay any costs incurred by bidders in the preparation and submission of their bids.

### **Submittal Checklist**

- Schedule of Contract Prices
- Acknowledgements
- Bidder's Qualification Form – the Owner reserves the right to check all statements and to judge the adequacy of the Bidders qualifications
- Non-collusion Declaration

# SCHEDULE OF CONTRACT PRICES

## POTTERY LIFT STATION PIPING REPLACEMENT

**NOTE:** Lump Sum total amount shall be concurrent with all items in the Scope of Work and Appendix A. Total Bid shall include mobilization, materials, labor costs, disposal fees, rental equipment, and any other associated costs to perform contracted work. If a discrepancy between the numerical unit price and the written (words) unit price is found, the written (words) unit price shall control.

Item No.	Estimated Quantity	SP/STD	Description of Item	Unit Price	Amount
1.	Lump Sum	STD	Removal/Replacement of two (2) sewerage pumps discharge piping and associated work		
			\$ _____	L.S.	\$ _____
		(Words)	Per Lump Sum		
				<b>SUBTOTAL:</b>	\$ _____
				<b>SALES TAX (9%):</b>	\$ _____
				<b>TOTAL BID:</b>	\$ _____

**SALES TAX**

In accordance with Section 1-07.2(2) State Sales Tax: The Contractor shall collect from the Contracting Agency retail sales tax on the full Contract amount.

# APPENDIX A

## Pre-Qualifiers and General Information

1. Interior wet well work shall be conducted between the hours of 8:00am-4:30pm. If contractor determines nominal flows are too high and unsafe for day work, then interior wet well work shall be conducted between the hours of 10:00pm-6:00am.
2. Discharge piping work shall be completed one pump at a time so adjacent pump is available in case of emergency evacuation of the wet well.
2. Wet well is 10' in diameter and approximately 15'-16' deep. Access is through double leaf hatch and folding safety grates (see attached sketch).
3. Incoming sewage shall be bypass pumped from a 48" x 5' deep manhole (adjacent to the wet well) to a 6" pig port northeast of the discharge check valve vault (see attached sketch). Bypass pump shall be diesel and capable of pumping 1800gal/min.
4. Existing 12" DI discharge piping and guiderail support brackets for each pump shall be removed from the 12" reducer flange at the bottom of the wet well to an area equidistant between the wet well and the check valve vault.
5. Manufactured or field fused HDPE meeting COPO spec 9.1.C.3\* will be reinstalled in place of the 12" DI and connected to the 12" DI discharge outside the check valve vault with a Romac Alpha coupling. Internal welds of fused pipe shall be reamed and removed prior to installation, if applicable.
6. All interior wet well hardware and flange backing rings shall be 316 Stainless Steel.
7. New guiderail support clamps and brackets shall be 316 Stainless Steel with 316 Stainless Steel nuts/bolts.
8. All existing hardware inside the wet well pertaining to the pump base plate, 6" base elbow, guiderail support brackets, and 12" DI reducer shall be checked for proper torque and retightened if necessary.

## Qualifiers

1. Contractor shall have a minimum of 5 years' experience in assembly/disassembly of piping in large capacity sewerage lift stations.
2. Contractor shall have a minimum of 5 years' experience in sewage bypass pumping of active lift stations.
3. Contractor's personnel shall have current confined space training/certifications pursuant to WAC and DOSH standards and have/or the ability to obtain the relevant confined space entry/retrieval systems for wet well entry.
4. Contractor shall have relevant experience in field hot work (welding) in a confined space and be compliant in WAC and DOSH requirements for welding in potentially hazardous atmospheric conditions.
5. Contractor's personnel shall have an ASTM certification or equivalent for butt fusing HDPE piping, if applicable. Field welded pipe shall be data log tested for proper weld strength compliant with ASTM calculations. If materials come premanufactured, appropriate documentation shall be submitted indicating appropriate weld strength.

## **Work to be Performed**

### **INSIDE WETWELL**

1. Existing 12" DI discharge piping and guiderail support brackets for each pump shall be removed from the top of the 12" reducer flange at the bottom of the wet well to an area equidistant between the wet well and the check valve vault.
2. HDPE meeting COPO spec 9.1.C.3\* will be reinstalled in place of the 12" DI. New HDPE vertical discharge piping shall be FLxFL, 90degree elbows FLxFL, and horizontal discharge through wet well wall shall be FLxPE. Horizontal discharge shall be connected to the 12" DI discharge outside the check valve vault with a Romac Alpha coupling. 316 Stainless Steel backing rings and hardware are required for all FLxFL connections. Internal welds of fused pipe shall be reamed and removed prior to installation, if applicable.
3. Install new 316 Stainless Steel guiderail support clamp, bracket, and hardware for each pump guiderail. Field welding inside wet well will be required to attach new brackets to guiderails. All parts shall be 316 Stainless Steel.
4. Removal of mortar from pipe penetration through wet well wall. New HDPE pipe shall be installed with Link Seal, or approved equal, to seal pipe penetrations.
5. All existing hardware inside the wet well pertaining to the pump base plate, 6" base elbow, guiderail support brackets, and 12" DI reducer shall be checked for proper torque and retightened if necessary.

### **OUTSIDE WETWELL**

1. Incoming sewage shall be bypass pumped from a 48" x 5' deep manhole (adjacent to the wet well) to a 6" pig port northeast of the discharge check valve vault (see attached sketch). Bypass pump shall be diesel and capable of pumping 1800gal/min.
2. Saw cutting and asphalt removal between wet well/check valve vault for removal/reconnection to existing 12" DI discharge.
3. Excavation.
4. Cutting of existing 12" DI wet well discharge pipe outside wet well and removal of wet well piping.
5. Removal of mortar from pipe penetration through wet well wall. New HDPE pipe shall be installed with Link Seal, or approved equal, to seal pipe penetrations.
6. Connection of 12" HDPE to 12" DI check valve piping with a 12" Romac Alpha coupling.
7. Pipe bedding shall conform to Standard Specifications 9-03.12(3) "Gravel Backfill for Pipe Zone Bedding". Backfilling shall conform to COPO Standard Specifications 9-03.12 (2) "Gravel Backfill for Walls.

8. Compaction of backfill and density testing per City of Port Orchard Development Guidelines.
9. Installation of 2" compacted depth hot mix asphalt and tarring asphalt abutting seams of excavated area.

**All connections and piping shall be checked for leaks and fixed accordingly.**

**\*COPO spec 9.1.C.3**

- a. *High density polyethylene plastic pipe suitable for use as a pressure conduit shall conform to the following specifications and standards:*
  - i. *Base Resin: Conform to all requirements of ASTM D 1248, Type III, Class C, Category 5, Grade P34, with a PPI rating of PE 3408.*
  - ii. *Cell classification: 345434C per ASTM D 3350.*
  - iii. *Environmental Stress Crack Resistance: No cracks after 5000 hours as determined by ASTM D 1693, Condition C.*
  - iv. *Rating: Long-term hydrostatic strength of 1,600 psi and hydrostatic design stress of 800 psi as determined by ASTM D 2837.*
  - v. *Working Pressure Rating: 160 psi, SDR 11.*
- b. *Pipe shall be butt-fused and internal weld seams removed*



Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Notary Public

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Printed Name

My Commission Expires: \_\_\_\_\_

**BIDDER'S QUALIFICATION FORM**  
**CITY OF PORT ORCHARD**  
**POTTERY LIFT STATION PIPING REPLACEMENT**

1. Name of Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_
2. Telephone No.(\_\_\_\_\_) \_\_\_\_\_ Fax No.: (\_\_\_\_\_)\_\_\_\_\_
3. Washington State Dept. of Labor and Industries Worker's Compensation Account No.: \_\_\_\_\_
4. Washington State Dept. of Licensing Contractor's Registration No. \_\_\_\_\_  
Expiration Date: \_\_\_\_\_
5. Washington State Uniform Business Identifier No. \_\_\_\_\_  
(Must have UBI number before the contract is awarded.)
6. Number of years engaged in contracting business under above name: \_\_\_\_\_
7. At the time of bid submittal, did the contractor have a certificate of registration in compliance with Chapter 18.27 RCW? \_\_\_\_\_
8. Does the contractor have industrial insurance coverage for its employees working in Washington as required in Title 51 RCW? \_\_\_\_\_
9. Does the contractor have an employment security department number as required in Title 50 RCW? (provide number): \_\_\_\_\_
10. Does the contractor have a state excise tax registration number as required in Title 82 RCW? (provide number): \_\_\_\_\_
11. Has the contractor been disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3)? \_\_\_\_\_
12. Has the contractor received training on the requirements related to public works and prevailing wage under chapters 39.04 and 39.12 RCW, as required in RCW 39.04.350(1)(f) \_\_\_\_\_
13. Within the three-year period immediately preceding the date of the bid solicitation, was the contractor (determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction) to have willfully violated, as defined in [RCW 49.48.082](#), any provision of chapter 49.46, 49.48, or 49.52 RCW?  
\_\_\_\_\_
14. Has the contractor violated the "Off-site Prefabricated Non-Standard Project Specific Items" reporting requirements more than one time as determined by the department of labor and industries? \_\_\_\_\_
15. Particular types of construction performed by your company:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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16. Gross amount of contracts now on hand: \$ \_\_\_\_\_

17. List similar recent construction projects that your firm has done in the last 5 years:

Amount	Type	Owner's Name	Phone

18. What is the construction experience of the principal individuals to be assigned to this project?

Name	Title	Years of Construction Experience	Availability

Pursuant to RCW 39.06.020, the contractor further agrees to verify responsibility criteria for each of its subcontractors and to require each of its subcontractors to both verify responsibility criteria for its subcontractors and include instant condition for verification requirement.

**NOTE:** Any bidder having current outstanding litigation with the City will not be considered responsible and will be rejected by the City.

By: \_\_\_\_\_  
(Authorized Signature)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## NON-COLLUSION DECLARATION

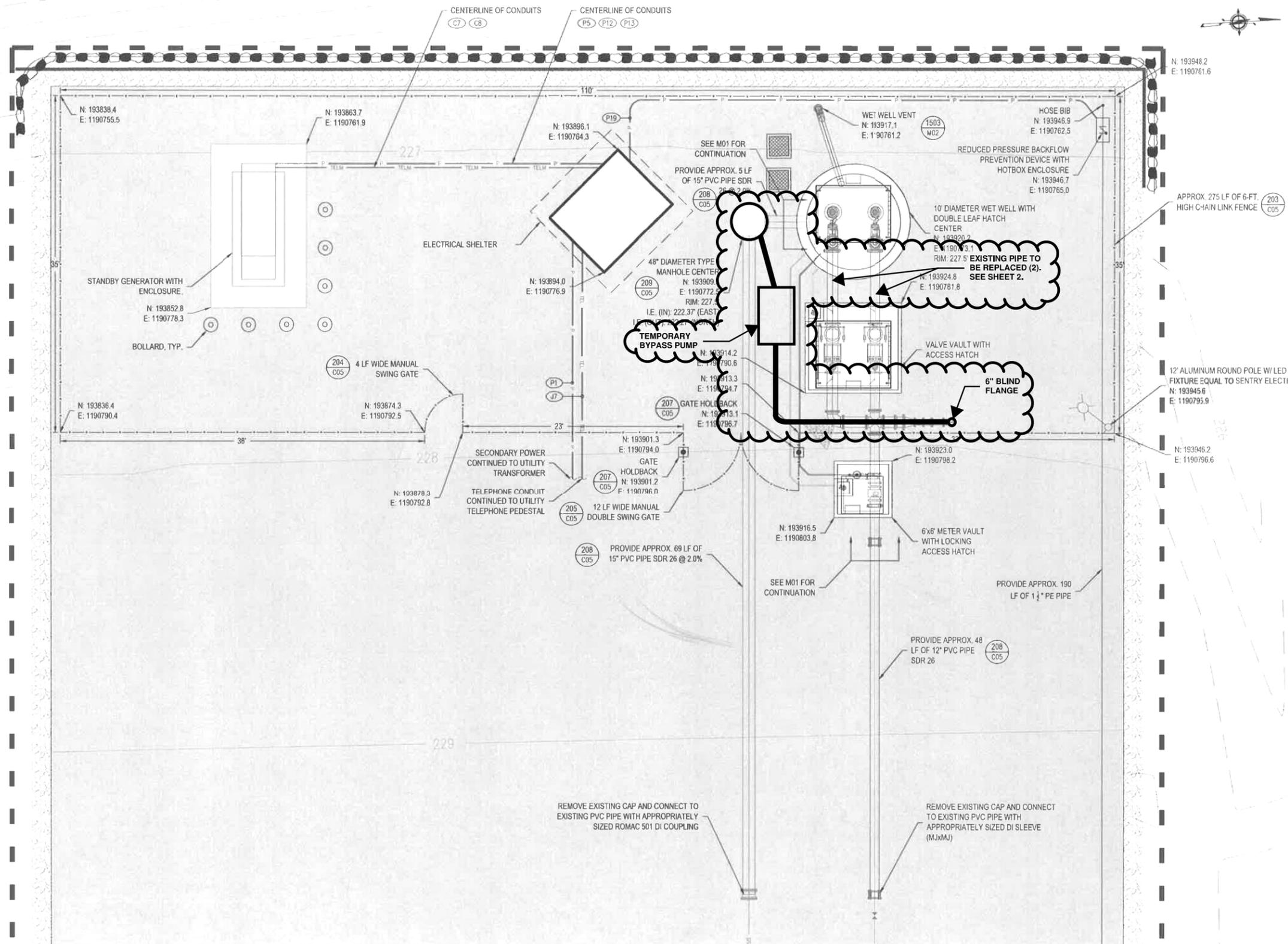
I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signing the signature page of this proposal, I am deemed to have signed and agreed to the provisions of this declaration.

By: \_\_\_\_\_

(Authorized Signature)

Title: \_\_\_\_\_



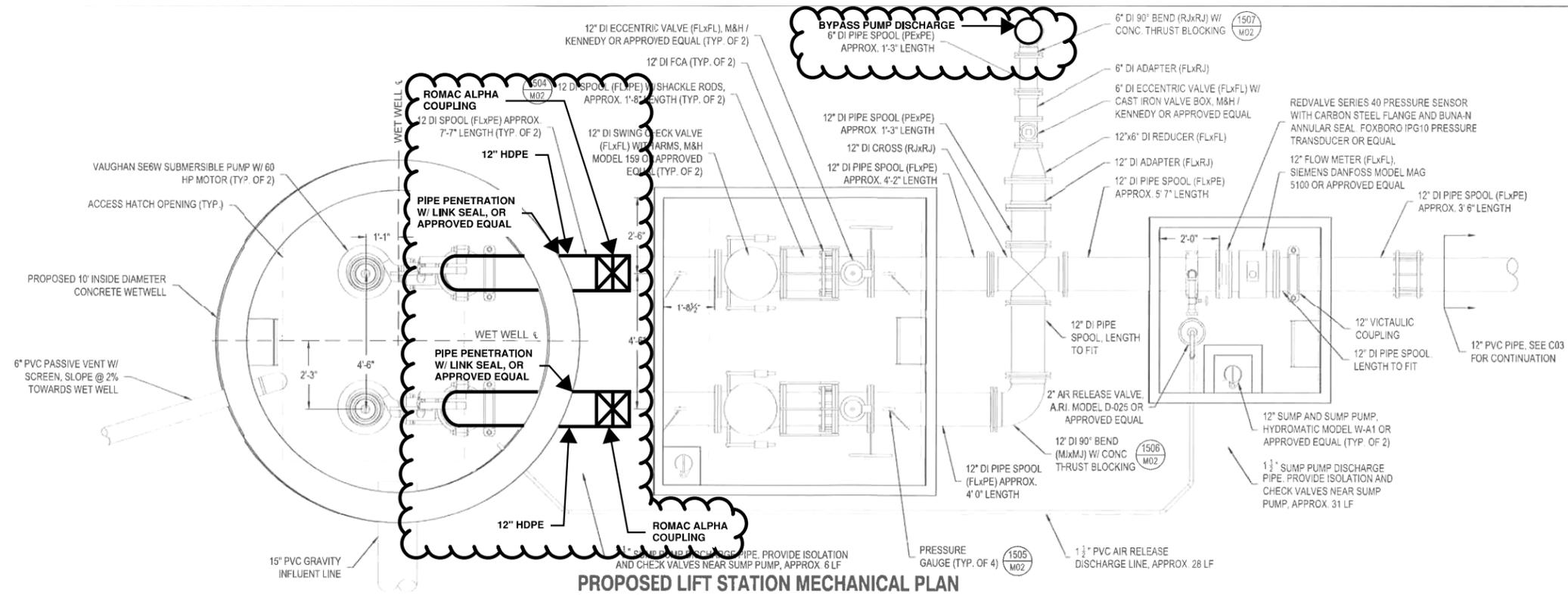
**GENERAL NOTES:**  
 1. DETAILS OBTAINED FROM AS-BUILT INFORMATION. CONTRACTOR SHALL FIELD VERIFY.

**SITE AND UTILITY PLAN**  
 NTS



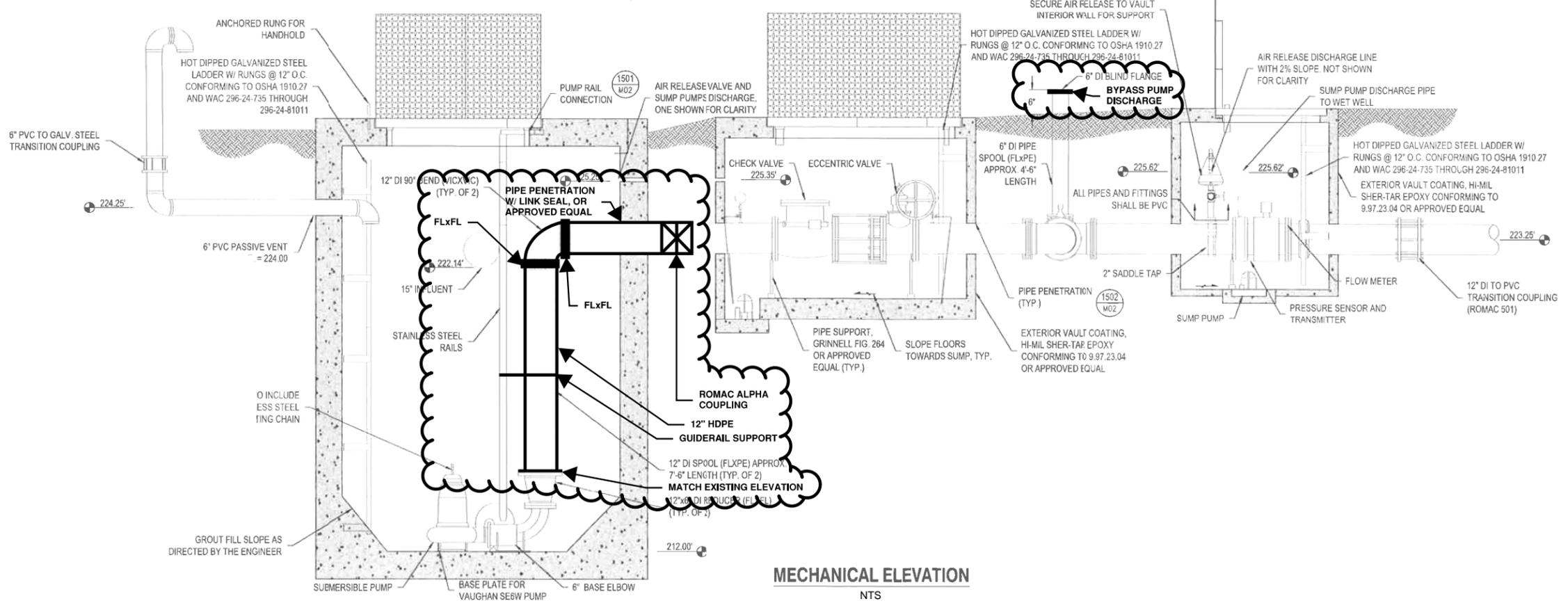
**SITE PLAN**  
**POTTERY LIFT STATION REPAIRS**

Drawn By:	Christian Williams, PE
Date:	June 10, 2021
Scale:	NTS



**PROPOSED LIFT STATION MECHANICAL PLAN**  
NTS

**GENERAL NOTES:**  
1. DETAILS OBTAINED FROM AS-BUILT INFORMATION. CONTRACTOR SHALL FIELD VERIFY.



**MECHANICAL ELEVATION**  
NTS



**MECHANICAL DETAILS**  
**POTTERY LIFT STATION REPAIRS**

Drawn By:	Christian Williams, PE
Date:	June 10, 2021
Scale:	NTS

**CITY OF PORT ORCHARD SMALL WORKS OVER \$35K  
CONSTRUCTION CONTRACT NO. C067-21  
PUBLIC WORKS PROJECT NO. PW2021-021**

THIS Agreement is made effective as of the [redacted] day of [redacted], 20[redacted], by and between

CITY OF PORT ORCHARD, WASHINGTON (“CITY”)

216 Prospect Street

Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

and

[redacted]  
[redacted]  
[redacted]

(“CONTRACTOR”)

Contact: [redacted]

Phone: [redacted]

Email: [redacted]

for the following Project:

***Pottery Lift Station Piping Replacement***

(“PROJECT”)

The City and Contractor agree as follows:

1. **Contract Documents.** The Contractor shall complete the Work described in the Contract Documents for the Project. The following documents are collectively referred to as the “Contract Documents”:
  - a. This Agreement signed by the City and the Contractor;
  - b. Division 1 of WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with APWA Supplement (1-99), subject to specific provisions contained within the Public Works Terms and Conditions;
  - c. The attached Special Provisions, Plans and Specifications;
  - d. 2015 International Building Code (IBC) and 2015 Energy Code Compliance;
  - e. Written change orders or orders for minor changes in the Work issued after execution of this Agreement;
  - f. Public Works Terms and Conditions;
  - g. Insurance and Bonding Requirements;
  - h. The Invitation to Bid, and bid proposal submitted by the Contractor, except when inconsistent with Contract Documents a-g; and

City of Port Orchard and [redacted]

Public Works Project No. PW2021-021

Small Works Contract No. C067-21

U:\9\_Sewer Utility\F\_Repair&Maintenance\SewerRepairs\_2021\Pottery LS\Contract\C067-21 Draft.docx

i. City of Port Orchard Development Guidelines.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. These Contract Documents complement each other in describing a complete work. Any requirement in one document binds as if stated in all. The Contractor shall provide any work or materials clearly implied in the Contract even if the Contract does not mention it specifically.

2. **Date of Commencement and Substantial Completion Date.** The date of commencement shall be **7 days after Notice to Proceed**. The Contractor shall substantially complete the Work not later than **October 31, 2021**, subject to adjustment by change order.
3. The Contractor shall do all work and furnish all tools, materials, and equipment in accordance with the above described Construction Contract Documents. The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing of the work provided for in these Construction Contract Documents, except those items mentioned therein to be furnished by the City.
4. Subject to additions and deductions by change order, the construction Contract Sum is the base bid amount of \$                      **(including applicable sales tax.)** The construction Contract Sum shall include all items and services necessary for the proper execution and completion of the work. The City hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the work described in the Construction Contract Documents and to complete and finish the same according to the plans and specifications and the terms and conditions herein contained; and hereby contracts to pay for the same at the time and in the manner and upon the conditions provided for in this Contract.
5. The Contractor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid. The Contractor agrees to furnish insurance of the types and in the amounts set forth in the Construction Contract Documents.
6. The Contractor agrees to repair and replace all property of the City and all property of others damaged by himself, his employees, and sub-contractors.
7. The Contractor for himself and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein upon the part of the Contractor.
8. It is further provided that no liability shall attach to the City of Port Orchard by reason of entering into this Construction Contract, except as expressly provided herein.

## 9. Title VI

City of Port Orchard and XXXXXXXXXX  
Public Works Project No. PW2021-021  
Small Works Contract No. C067-21

Rev 5/1/2020

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  1. withholding payments to the Contractor under the Agreement until the contractor complies; and/or
  2. cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided,

that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the City to enter into any litigation to protect the interests of the City. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed on the date first written above.

CITY OF PORT ORCHARD

CONTRACTOR

\_\_\_\_\_  
Robert Putaansuu, Mayor

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_ (*Corporate Officer (Not Contract Signer)*)  
certify that I am the \_\_\_\_\_ (*Corporate Title*) of the  
corporation named \_\_\_\_\_ as the Contractor in the Agreement attached hereto; that  
\_\_\_\_\_, (*Contract Signer*) who signed said Agreement on behalf  
of the Contractor, was then \_\_\_\_\_ (*Corporate Title*) of said corporation;  
that said Agreement was duly signed for and in behalf of said corporation by authority of its  
governing body, and is within the scope of its corporate powers.

Corporate Seal

\_\_\_\_\_  
Corp. officer signature (not contract signer)

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

\_\_\_\_\_, (*corporate officer (not contract signer)*) being  
duly sworn, deposes and says that he/she is \_\_\_\_\_ (*Corporate Title*)  
of \_\_\_\_\_ (*Name of Corporation*)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
Notary Public (Print)

My commission expires \_\_\_\_\_

**CITY OF PORT ORCHARD  
PUBLIC WORK PROJECT TERMS AND CONDITIONS**

The following terms and conditions shall be used in conjunction with the Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with the APWA Supplement (Section 1-99), as issued by the Washington State Department of Transportation and American Public Works Association, Washington State Chapter, hereinafter referred to as the "standard specifications". The standard specifications, except as they may be modified or superseded by these provisions, shall govern all phases of work under this Contract, and they are by reference made an integral part of these specifications and Contract as if herein fully set forth.

When the provisions of the standard specification conflict with the terms and conditions as contained herein, the terms and conditions shall prevail.

1. **BID PRICE:** The bid price(s) shall include all necessary permits, fees and items of labor, material, equipment, tools, overhead and compensation, supplies, taxes, utilities and other incidentals necessary to complete the work in a fully functional and operational state. All prices including bid prices are in US funds.

2. **DEFINITIONS:** The term "City" means Port Orchard, Washington, "successful bidder" means the apparent lowest and best responsible bidder to whom an award is made, and "Contractor" means the successful bidder who has satisfied the requirements for the award and who receives a contract executed by the City. "Bidder" means the person, firm or corporation that has made an offer in response to the invitation to bid. "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations.

3. **LICENSING AND REGISTRATION:** The Contractor must have a Washington State certificate of registration per chapter 18.27 RCW; a current state unified business identifier number; and if applicable, industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number. In addition, the bidder must not be disqualified from bidding on any public works contracts under RCW 39.06.010 or 39.12.065(3).

4. **PUBLIC WORK REQUIREMENTS:** This project constitutes a public work under state law. Bidders are warned to take into consideration statutory legal requirements, particularly, the payment of prevailing wages and fringe benefits, payment and performance bonds and sales tax implications in making their bids. It is the sole responsibility of the bidder to insure that the appropriate labor classification(s) are identified and that the applicable wage and benefit rates are taken into consideration when preparing their bid according to these specifications. The Contractor shall complete and file State of Washington, Department of Labor & Industries, Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid forms and shall familiarize itself with their requirements. The Contractor shall also be responsible for and pay all costs pertaining to the processing of these forms.

5. **INSURANCE REQUIREMENT:** The successful bidder will furnish insurance as stipulated in the Attachment entitled "Insurance Requirements."

6. **RECEIPT OF ADDENDA:** All official clarifications or interpretations of the bid documents will be by written addenda only.

*City of Port Orchard and XXXXXXXXXXXX*

*Public Works Project No. PW2021-021*

*Small Works Contract No. C067-21*

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7. PROJECT COMPLIANCE: In compliance with the request for quotation, Bidder hereby proposes to perform all work for this project in strict accordance with the Contract Documents, at the Contract Sum, and within the time set forth herein with the understanding that time is of the essence in the performance of this Contract.

8. TAXES: Proposals shall include all applicable taxes except sales tax, which is a separate bid item. It shall be the Bidder's responsibility to furnish Federal Excise Tax Exemption Certificate, when applicable.

9. ERROR IN EXTENSION: Unit price, when used, shall govern in case of extension error.

10. PERMITS AND FEES: The Contractor shall furnish all permits, inspection fees, and fees required in the performance of this Contract, including those charged under RCW 39.12.070 by the Department of Labor and Industries for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid, etc. The Department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The Contractor is responsible for all fees resulting from these statutes.

11. CONTRACT: The Contract Documents ("Contract"), when properly signed, will be the only form that will be recognized by the City as an award. The executed Contract supersedes all previous communications and negotiations, except as referenced herein, and constitutes the entire agreement between the City and Contractor (parties), except as provided herein. The Contractor shall not make any changes, alterations, or variations in the terms of the Contract without the written consent of the City. No terms stated by the Bidder in its proposal shall be binding on the City unless accepted in writing by the City. The successful bidder may not assign the Contract resulting from this invitation to bid without the City's prior written consent. No waiver by the City of a breach of any provision of the terms and conditions outlined in the invitation to bid shall constitute a waiver of any other breach of such provision or of any other provisions.

12. CHANGE ORDERS: If the City or the Contractor requests a change in the Work, or either party believes that a change is necessary, then the parties shall comply with the following procedure to document and reflect a change in the Work: (a) The party requesting the change shall write a description of the change and give the description to the other party (the "Change Notice"); (b) Before proceeding with the change in Work, unless otherwise excused by emergency, the Contractor shall provide the City with a fixed-price written estimate of the cost and time impact of the change in Work; and (c) The City and the Contractor shall execute a Change Order confirming their agreement as to the change in Work, the fixed-price cost, and the extension of the Substantial Completion Date, if any. If the change in Work cannot be performed on a fixed-price basis, the Change Order shall identify the agreed method of compensation.

13. CHANGE DIRECTIVES: A "Change Directive" is a written order signed by the City, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Substantial Completion Date, or both. The City may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Substantial Completion Date being adjusted accordingly. A Change Directive shall only be used in the absence of total agreement on the terms of a Change Order. Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work and advise the City of its agreement or disagreement with the proposed method for determining the proposed adjustment in the Contract Sum and/or Substantial Completion Date, if any, provided in the Change Directive. A Change Directive signed by the Contractor indicates agreement with all terms set forth in the Change Directive. Such agreement shall be effective immediately and shall be recorded as soon as practical with a Change

*City of Port Orchard and XXXXXXXXXXXX*

*Public Works Project No. PW2021-021*

*Small Works Contract No. C067-21*

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Order. If the parties are unable to agree on an adjustment to the Contract Sum and/or Substantial Completion Date, if any, then either party may submit the matter for determination in accordance with Section 21.

14. **MINOR CHANGES IN THE WORK:** The City shall have the authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Substantial Completion Date and not inconsistent with the Contract documents. The Contractor shall promptly carry out such written orders for minor changes in the Work.

15. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Contractor warrants full compliance with all applicable local, state or federal laws and regulations and agrees to indemnify and defend the City against any loss, cost, liability or damage, including reasonable attorney's fees, by reason of successful bidder's violation of this paragraph.

16. **INDEMNIFICATION:** All services to be rendered or performed under this Contract will be rendered or performed entirely at the Contractor's own risk. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT.

17. **TERMINATION:** This Contract may be terminated in whole or in part, without penalty to the City, under the following conditions: 1) by mutual written agreement; 2) by the City for breach by the Contractor of any of the obligations or requirements set forth in the Contract Documents which would, at the option of the City, require the Contractor to assume liability for any and all damages, including the excess of re-procuring similar products or services; 3) for convenience of the City; or 4) by the City for non-appropriation of funds.

18. **TERMINATION BY THE CITY WITHOUT CAUSE:** Notwithstanding any other provisions contained herein, the City, without cause, may terminate the Contract between the parties by providing notice to the Contractor. Upon termination under this section: 1) All remaining obligations of the parties are discharged, but any right based upon breach or performance occurring prior to termination survives; 2) If the reasonable costs of performance incurred by the Contractor prior to termination exceed the amount paid by the City to the Contractor on the Contract Sum, the City shall reimburse the Contractor in the amount of such excess; 3) If the amount paid by the City to the Contractor on the Contract Sum exceeds the reasonable costs of performance incurred by the Contractor prior to termination, the Contractor shall reimburse the City in the amount of such excess; and 4) Any funds obtained or retained by the Contractor as provided in subsections 2) or 3), above, shall constitute full payment and consideration for the services performed by the Contractor prior to termination.

19. COMPLIANCE WITH TERMS: The City may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

20. PAYMENT: Contractor shall maintain time and expense records and provide them to the City along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice. All invoices shall be paid by the City within 45 days of receipt of a proper invoice. If the services rendered do not meet the requirements of the Contract, Contractor will correct or modify the work to comply with the Contract. City may withhold payment for such work until the work meets the requirements of the Contract.

21. DISPUTE RESOLUTION: In the event there is a dispute between the parties, the parties agree to resolve that dispute in the following manner: (a) The parties shall attempt in good faith to resolve any dispute promptly through negotiation. Either party may give the other party written notice that a dispute exists (a "Notice of Dispute"). The Notice of Dispute shall include a statement of such party's position. Within ten (10) days of the delivery of the Notice of Dispute, the parties shall meet at a mutually acceptable time and place and attempt to resolve the dispute; (b) If the parties are unable to resolve the dispute, they may elect to submit the dispute to mediation. The cost of the mediation shall be borne equally by the parties. The mediator shall be selected by the mutual agreement of the parties; (c) If the mediation does not result in a settlement of the dispute, the dispute shall be settled by binding arbitration by the Judicial Arbitration and Mediation Services ("JAMS") in accordance with the then operative construction rules of JAMS. The parties may select an arbitrator by mutual agreement, or if unable to agree, the arbitrator will be selected pursuant to the rules of JAMS. The parties shall be bound by the decision of such arbitrator. The arbitration shall be conducted in Kitsap County, Washington; provided, if JAMS is unable to conduct the arbitration in Kitsap County, then the arbitration shall be held in such location as the parties may agree after consulting with JAMS.

## CITY OF PORT ORCHARD INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of the Contract with the City, 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 and subcontractors.

No Limitation. The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance. The Contractor shall obtain insurance of the types described below:

- *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.
- *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 11 85 or an equivalent endorsement. 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 by endorsement as an additional 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 or substitute endorsements providing equivalent coverage.
- *Workers' Compensation* coverage as required by the Industrial Insurance laws of the State of Washington.
- *Builders Risk* insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. The 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 flood 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.

- *Employer's Liability* insurance limit of \$1,000,000 each accident, *Employer's Liability Disease* each employee \$1,000,000 and *Employer's Liability Disease – Policy* limit \$1,000,000.

Minimum Amounts of Insurance. The Contractor shall maintain the following insurance limits:

- *Automobile Liability* insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- *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.
- *Builders Risk* insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

Other Insurance Provisions. The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respects the City (as applicable to each line of coverage). The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it. If any coverage is written on a "claims made" basis, then a minimum of three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided by the City.

Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, including but not limited to the Contractor's employee-owned tools, machinery, equipment or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as any temporary structures, scaffolding and protective fences.

Waiver of Subrogation. The Contractor waives all rights against the City, any of its Subcontractors, Sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to this Insurance Requirements Section of the Contract or other property insurance applicable to the work. The Contractor's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City. The City will not waive its right to subrogation against the Contractor. The Contractor's insurance shall be endorsed acknowledging that the City will not waive its right to subrogation.

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

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. 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.

Subcontractors. The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

Notice of Cancellation. The Consultant shall provide thirty (30) days written notice by certified mail, return receipt requested, to the City prior to the cancellation or alteration of coverage. The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

Failure to Maintain Insurance. The insurance required by this Section will not be canceled, materially changed or altered without forty-five (45) days prior written notice submitted to the City. Failure on the part of the Contractor to maintain insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business 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, offset against funds due the Contractor from the City.

**CITY OF PORT ORCHARD  
DECLARATION OF OPTION FOR PERFORMANCE  
BOND OR ADDITIONAL RETAINAGE**

**(APPLICABLE TO CONTRACTS OF \$150,000 OR LESS –RCW 39.08.010)**

*Note: This form must be submitted at the time the Contractor executes the Contract. The Contractor shall designate the option desired by checking the appropriate space.*

1. The Contractor shall provide 5% retainage, pursuant to RCW 60.28.011(1)(a).

2. In addition, the Contractor elects to (select one):

\_\_\_\_\_ (1) Furnish a performance bond in the amount of the total contract sum. An executed performance bond on the required form is included with the executed contract documents.

\_\_\_\_\_ (2) Have the City retain, in lieu of the performance and payment bonds, ten percent (10%) of the total contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. RCW 39.08.010.

In choosing option 2, the Contractor agrees that if the Contractor, its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract, and shall faithfully perform all the provisions of such Contract and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of the Contract that may hereafter be made, at the time and in the manner therein specified, and shall pay all laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, on his or her part, and shall defend, indemnify, and save harmless the City of Port Orchard, Washington, its officers and agents from any claim for such payment, then the funds retained in lieu of a performance bond shall be released at the time provided in said option 2; otherwise, the funds shall be retained until the Contractor fulfills the said obligations.

\_\_\_\_\_  
*Contractor Signature, Date* \_\_\_\_\_  
Bond No. \_\_\_\_\_

**PERFORMANCE AND PAYMENT BOND**

**CITY OF PORT ORCHARD  
POTTERY LIFT STATION PIPING REPLACEMENT  
CONTRACT NO. C067-21**

Bond to City of Port Orchard, Washington

Bond No. \_\_\_\_\_

We, \_\_\_\_\_, and \_\_\_\_\_,  
(Principal) (Surety)

a \_\_\_\_\_ Corporation, and as a surety corporation authorized to become a surety upon Bonds of Contractors with municipal corporations in Washington State, are jointly and severally bound to the City of Port Orchard, Washington (“Owner”), in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), the payment of which sum, on demand, we bind ourselves and our successors, heirs, administrators, executors, or personal representatives, as the case may be. This Performance Bond is provided to secure the performance of Principal in connection with a contract dated \_\_\_\_\_, 20\_\_\_\_, between Principal and Owner for a project entitled **Pottery Lift Station Piping Replacement** Contract No. **C067-21** (“Contract”). The initial penal sum shall equal 100 percent of the Total Bid Price, including sales tax, as specified in the Proposal submitted by Principal.

NOW, THEREFORE, this Performance and Payment Bond shall be satisfied and released only upon the condition that Principal:

- Faithfully performs all provisions of the Contract and changes authorized by Owner in the manner and within the time specified as may be extended under the Contract;
- Pays all laborers, mechanics, subcontractors, lower tier subcontractors, material persons, and all other persons or agents who supply labor, equipment, or materials to the Project; and
- Pays the taxes, increases and penalties incurred on the Project under Titles 50, 51 and 82 RCW on: (A) Projects referred to in RCW 60.28.011(1)(b); and/or (B) Projects for which the bond is conditioned on the payment of such taxes, increases and penalties.

The surety shall indemnify, defend, and protect the Owner against any claim of direct or indirect loss resulting from the failure:

- Of the Principal (or any of the employees, subcontractors, or lower tier subcontractors of the Principal) to faithfully perform the contract, or
- Of the Principal (or any subcontractor or lower tier subcontractor of the Principal) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work.

The liability of Surety shall be limited to the penal sum of this Performance and Payment Bond.

Principle and Surety agree that if the Owner is required to engage the services of an attorney in connection with enforcement of this bond each shall pay the Owner reasonable attorney’s fees, whether or not suit is commenced, in addition to the penal sum.



**ACKNOWLEDGEMENT**

**Corporation, Partnership, or Individual**

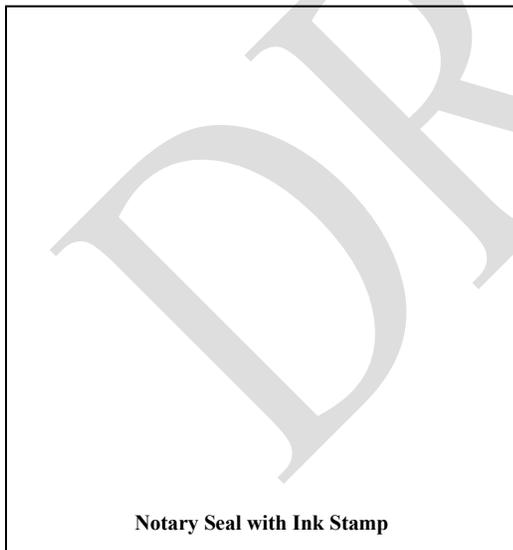
STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the (check one of the following boxes):

- \_\_\_\_\_ of \_\_\_\_\_, the **corporation,**
- \_\_\_\_\_ of \_\_\_\_\_, the **partnership,**
- individual,**

that executed the foregoing instrument to be the free and voluntary act and deed of said  corporation,  partnership,  individual for the uses and purposes therein mentioned, and on oath stated that  he  she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Dated: \_\_\_\_\_

\_\_\_\_\_

Print or type name \_\_\_\_\_

**NOTARY PUBLIC,**  
in and for the State of Washington

Residing at: \_\_\_\_\_

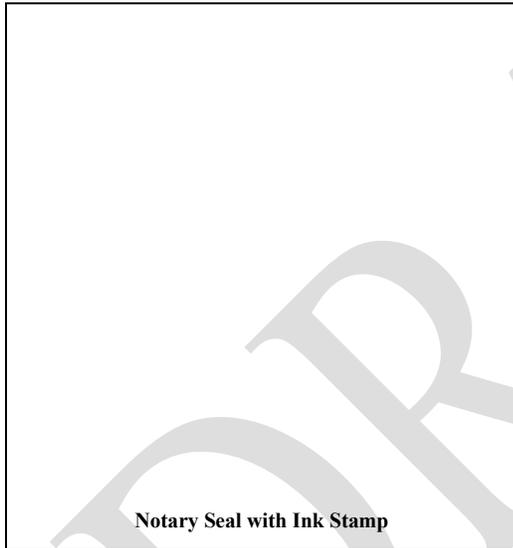
My Commission expires: \_\_\_\_\_

**SURETY ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that  he  she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Dated: \_\_\_\_\_

\_\_\_\_\_  
Print or type name

**NOTARY PUBLIC,**  
in and for the State of Washington

Residing at: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

**CITY OF PORT ORCHARD  
MAINTENANCE/WARRANTY BOND**

(Note: Before the Performance Bond can be released the City must receive the two years Maintenance/Warranty Bond)

PROJECT #, PERMIT #, PW2021-021  
CONTRACT # C067-21  
SURETY BOND #: \_\_\_\_\_  
DATE POSTED: \_\_\_\_\_  
EXPIRATION DATE: \_\_\_\_\_

RE: Project Name: Pottery Lift Station Piping Replacement  
Owner/Developer/Contractor: \_\_\_\_\_  
Project Address: 2014 Pottery Ave. Port Orchard, WA 98366

KNOW ALL PERSONS BY THESE PRESENTS: That we, \_\_\_\_\_ (hereinafter called the "Principal"), and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) 20% Total Contract Amount, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal has constructed and installed certain improvements on public property in connection with a project as described above within the City of Port Orchard; and

WHEREAS, the Principal is required to post a bond for the twenty-four (24) months following written and final acceptance of the project in order to provide security for the obligation of the Principal to repair and/or replace said improvements against defects in workmanship, materials or installation during the twenty-four (24) months after written and final approval/acceptance of the same by the City;

NOW, THEREFORE, this Maintenance Bond has been secured and is hereby submitted to the City. It is understood and agreed that this obligation shall continue in effect until released in writing by the City, but only after the Principal has performed and satisfied the following conditions:

A. The work or improvements installed by the Principal and subject to the terms and conditions of this Bond are as follows: (insert complete description of work here)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. The Principal and Surety agree that the work and improvements installed in the above-referenced project shall remain free from defects in material, workmanship and installation (or, in the case of landscaping, shall survive,) for a period of twenty-four (24) months after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse or cessation of the state of the project or improvements as accepted by the City during the twenty-four (24) month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective

City of Port Orchard and **XXXXXXXXXXXX**  
Public Works Project No. PW2021-021  
Small Works Contract No. C067-21

Rev 5/1/2020

workmanship, materials or installations.

C. The Principal shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work.

D. The Principal and the Surety agree that in the event any of the improvements or restoration work installed or completed by the Principal as described herein, fail to remain free from defects in materials, workmanship or installation (or in the case of landscaping, fail to survive), for a period of twenty-four (24) months from the date of approval/acceptance of the work by the City, the Principal shall repair and/replace the same within ten (10) days of demand by the City, and if the Principal should fail to do so, then the Surety shall:

1. Within twenty (20) days of demand of the City, make written commitment to the City that it will either:
  - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
  - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection D(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs which exceeded the City estimate, limited to the bond amount.

2. In the event the Principal fails to make repairs or provide maintenance within the time period requested by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the

purpose of repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.

E. Corrections. Any corrections required by the City shall be commenced within ten (10) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this bond as described in Section D above.

F. Extensions and Changes. No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder.

G. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of

any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this bond shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this bond shall be in Kitsap County Superior Court.

H. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and until released in writing by the City at the request of the Surety or Principal.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SURETY COMPANY  
(Signature must be notarized)

DEVELOPER/OWNER  
(Signature must be notarized)

By: \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

CITY OF PORT ORCHARD

By: \_\_\_\_\_  
Its Public Works Director/City Engineer

Date: \_\_\_\_\_

**CHECK FOR ATTACHED NOTARY SIGNATURE**

- \_\_\_\_\_ Individual (Form P-1)
- \_\_\_\_\_ Corporation (Form P-2)
- \_\_\_\_\_ Surety Company (Form P-2)

**FORM P-1 / NOTARY BLOCK**

(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON )

City of Port Orchard and **XXXXXXXXXX**

Public Works Project No. PW2021-021

Small Works Contract No. C067-21

U:\9\_Sewer Utility\F\_Repair&Maintenance\SewerRepairs\_2021\Pottery LS\Contract\C067-21 Draft.docx

Rev 5/1/2020

COUNTY OF KITSAP ) ss.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(print or type name)

NOTARY PUBLIC in and for the

State of Washington, residing

at: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

DRAFT

**FORM P-2 / NOTARY BLOCK**  
(Use For Partnership or Corporation Only)

**(Developer/Owner)**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged as the \_\_\_\_\_ of \_\_\_\_\_ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (print or type name)

NOTARY PUBLIC in and for the  
State of Washington, residing  
at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**(Surety Company)**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged as the \_\_\_\_\_ of \_\_\_\_\_ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (print or type name)

NOTARY PUBLIC in and for the  
State of Washington, residing  
at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

## APPENDIX A

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to -ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).