

City of Bingen

Public Works Contract and General Conditions

THIS AGREEMENT, made in two (2) copies, each of which shall be deemed original, and entered into as of the date hereinafter affixed, by and between the City of Bingen, Washington, hereinafter called the Owner, and _____ hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Agreement, the parties hereto covenant and agree as follows:

1. The Contractor shall do all work and furnish all tools, materials and equipment for tree maintenance in accordance with and as described in the attached proposal and/or plans and specifications for the amount bid, which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this contract and every part thereof.

The Contractor shall file the appropriate notices and obtain the appropriate permits upon the award of this contract. All work associated with this contract shall be completed by within 30 days of calendar days after Notice of Proceed is issued.

In the event the Contractor shall fail to complete the work within the time limit or the extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages shall be paid at the rate of \$200 per calendar day. Sundays and legal holidays shall be included in determining each day for purpose of calculating liquidated damages.

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 completing the work provided for in this contract and every part thereof and shall guarantee said materials and work for a period of one year after completion of this contract, except as may be modified by the plans, specifications and/or contract documents.

2. The City of Bingen, Washington, hereby promises and agrees with the Contractor to retain the Contractor to provide the materials and to perform the above-described work and to complete and finish the same according to the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of process bid and hereto attached, at the time and in the manner and upon the conditions provided for in this contract.
3. The Contractor for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants contained herein.

4. Insurance

A. General

The Contractor shall provide (from insurance companies acceptable to the Owner) the insurance coverage designated hereinafter and pay all costs.

Before commencing work under this Contract, Contractor shall furnish the Owner with certificates of insurance specified herein showing the type, amount, class of operations covered, effective dates, and date of expiration of policies, and containing substantially the following statement:

“The insurance covered by this certificate shall not be canceled or materially altered.”

In case of the breach of any provisions of this Article, the Owner, at his option, may take out and maintain, at the expense of the Contractor, such insurance as the Owner may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this Contract.

B. Contractor And Subcontractor Insurance

The Contractor shall not commence work under this Contract until he has obtained all the insurance required hereunder and such insurance has been reviewed by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until insurance specified below has been obtained. Review of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

Contractor shall include all Subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractor shall be subject to all of the requirements stated herein.

C. Compensation And Employer's Liability Insurance

The Contractor shall maintain during the life of this Contract the statutory amount of Workmen's Compensation Insurance, in addition, Employer's Liability Insurance in an amount as specified in the Supplementary conditions, for each occurrence, for all of his employees to be engaged in work on the project under this Contract. In case any such work is subcontracted, the Contractor shall require the Subcontractor to provide similar Workmen's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work.

The Public Works Contract Division of the Department of Labor and Industries will provide the Contractor will applicable industrial insurance and medical aid classification and premium rates..

D. General Liability Insurance (Including Automobile)

The Contractor shall maintain during the life of this Contract such general liability, completed operations and products liability, and automobile liability insurance as will provide coverage for claims for damages for personal injury, including accident death, as well as for claims for property damage, which may arise directly or indirectly from performance of the work under this Contract. The general liability policy shall include contractual liability assumed by the Contractor under Article INDEMNITY. Coverage for property damage shall be on a "broad form" basis with no exclusions for "X, C & U". The amount of insurance to be provided shall be as follows:

General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and \$2,000,000 aggregate.

Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

In the event any work under this Contract is performed by a Subcontractor, the Contractor shall be responsible for any liability directly or indirectly arising out of the work performed by the Subcontractor, to the extent such liability is not covered by the Subcontractor's insurance.

The Owner, its officers, agents, and employees shall be named as Additional Insured on the Contractor's and any Subcontractor's general liability and automobile liability insurance policies for any claims arising out of work performed under this Contract.

E. No Personal Liability Of Public Officials

In carrying out any of the provisions hereof in exercising any authority granted by the Contract, there will be no personal liability upon any public official.

5. To the maximum extent permitted by law, the Contractor shall hold harmless, indemnify and defend the Owner, and its officers, employees, agents and subconsultants from all claims and losses, including attorney's fees and litigation costs, arriving out of or resulting from performance of the work contemplated by this agreement and regardless of whether the claims or losses arise from the act or omission of the Contractor or one of its subcontractors or their officers, employees or agents.

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right of the obligation under this Contract, the parties hereto agree that any

such action or proceedings shall be brought in a court of competent jurisdiction situated in Klickitat County, Washington.

No liability shall attach to the City or the Contractor by reason of entering into Contract except as expressly provided herein.

6. Taxes and Charges

The Contractor shall withhold and pay any and all sales and use taxes and all withholding taxes, whether State or Federal, and pay all Social Security charges and also all State Unemployment Compensation charges, and pay or cause to be withheld, as the case may be, any and all taxes, charges, or fees or sums whatsoever, which are now or may hereafter be required to be paid or withheld under any laws.

7. Codes, Ordinances, Permits, and Licenses

The Contractor shall keep himself fully informed of all local codes and ordinances, as well as state and federal laws, which in any manner affect the work herein specified. The Contractor shall, at all times, comply with said codes and ordinances, laws, and regulations, and protect and indemnify the Owner and its respective employees, and its officers and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations. All permits, license, and inspection fees necessary for prosecution and completion of the work shall be secured and paid for by the Contractor, unless otherwise specified.

8. Safety

The Contractor shall be solely and completely responsible for conditions of the job-site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to US Department of Labor (OHSA), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirements shall be followed. The Contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The Contractor shall develop and maintain for the duration of this Contract, a safety program that will effectively incorporate and implement all required safety provisions. The Contractor shall appoint an employee who is qualified and authorized to supervise and enforce compliance with the safety program.

The Contractor, as a part of his safety program, shall maintain, at his office or other well-known place at the job-site, safety equipment applicable to the work as prescribed by the aforementioned authorities, all articles necessary for giving first-aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job-site.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner. In addition, the Contractor must promptly report in writing to the Owner all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses.

If a claim is made by anyone against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Owner, giving full details of the claim.

9. Wage Rates

The Contractor, any Subcontractor, and all individuals or firms employed in the performance of any part of this Contract shall be paid not less than the “prevailing rate of wage”, in accordance with the provisions of Chapter 39.12 RCW, as determined by the Industrial Statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this Contract will be performed is by reference made a part of this Contract as though fully set forth therein.

If wage determination decisions of the Washington State Department of Labor and Industries, which is attached hereto and made a part hereof, has been superseded by an subsequent wage determination decision(s) published up to and including ten (10) days prior to bid opening, the most recent applicable wage decision shall be incorporated by reference, and the successful bidder agrees to be bound by it, regardless of what is contained in the Specifications.

Before any payment is made by the Owner of any sums due under this Contract, the Owner requests from the Contractor and any Subcontractor a copy of the “Statement of Intent to Pay Prevailing Wages” approved by the Washington State Department of Labor and Industries. Also following the acceptance of the project, the Owner must received from the Contractor and each Subcontractor a copy of the “Affidavit of Wages Paid” and in addition, from the Contractor, a copy of “release for the Protection of Property Owners and General Contractor,” all approved by the State Department of Labor and Industries. The Contractor and each Subcontractor shall pay all fees associated with and make all applications directly to the State Department of Labor and Industries. These affidavits shall be required before any retained funds, according to the provisions of RCW 60.28.010, are released to the Contractor. Payment by the Contractor or Subcontractor of any fees shall be considered incidental to the construction and all costs shall be included in other pay items of the project.

Should the Contractor elect to work more than eight (8) hours per day, or more than five (5) days per week, or on holidays, during the course of the stated Contract time limit, all incremental costs of engineering and inspection thus entailed will be charged to the Contractor. Such charges will be billed directly to the Contractor by the Owner and said costs shall be a lien against the Contractor’s work.

10. A Performance and Payment bond is required. If the contract price is less than \$25,000 the Contractor may elect to have the City of Bingen withhold 50% retainage for 30 days following the acceptance of the project.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed the _____ day of _____, 2010.

CITY OF BINGEN, Washington

Betty J. Barnes, Mayor

CONTRACTOR,

Signature

Printed

Title