

WEST SOUND UTILITY DISTRICT

Board of Commissioners
Regular Board Meeting

June 21, 2022
3:00 PM

AGENDA

PUBLIC COMMENTS

CONSENT AGENDA

1. Approval of the Regular Board Meeting Minutes of June 6, 2022
2. Approval of Vouchers WSUD #30602 through #30647 in the amount of \$326,445.61
3. Approval of Vouchers SKWRF #16995 through #17013 in the amount of \$951,390.17
4. June Payroll in the amount of \$187,573.10

BOARD DISCUSSION/ACTION ITEM

1. Resolution 1022-22, DEC, Housing Kitsap, Riverstone Plat
2. Resolution 1023-22, Purchase of Equipment, Orchard Bluff Lift Station

STAFF REPORTS

1. Plant Manager
2. Operations Manager
3. Finance Manager
4. General Manager

COMMISSIONERS' REPORTS

EXECUTIVE SESSION

Executive Sessions may be scheduled or announced for discussions per RCW 42.30.110.

FUTURE MEETINGS

July 5	Regular Board Meeting (Tuesday as Monday July 4 th is a Holiday)
July 18	Regular Board Meeting
August 1	Regular Board Meeting
August 15	Regular Board Meeting
August 17	Sewer Advisory Committee Meeting (SKWRF)

Executive Sessions may be scheduled as needed for personnel, legal and other similar matters.

The Board may add and take action on other items not listed on the agenda

**WEST SOUND UTILITY DISTRICT
RESOLUTION 1022-22**

**A RESOLUTION OF
THE BOARD OF COMMISSIONERS
OF WEST SOUND UTILITY DISTRICT
APPROVING THE DEVELOPERS EXTENSION CONTRACT
FOR SEWER AND WATER UTILITIES
TO AND WITHIN THE RIVERSTONE PLAT.**

WHEREAS, Ms. Heather Blough, Executive Director for Kitsap County Consolidated Housing Authority, dba “Housing Kitsap” (Developer) has submitted an application, plans and documents for the extension of water and sewer services for the Riverstone Plat located on Harold Drive SE consisting of a thirty-nine (39) lot plat located on Kitsap County Tax Parcels #4625-000-011-0202 & 352401-4-019-2007; and

WHEREAS, it shall be the responsibility of the Developer to construct the water and sewer system to and within their Plat site in accordance with the standards of West Sound Utility District and as approved by the District; **NOW, THEREFORE**,

THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:

Section 1. West Sound Utility District hereby approves the execution of a Developer Extension Contract (Exhibit “A”) with Ms. Heather Blough, Executive Director for Kitsap County Consolidated Housing Authority, dba “Housing Kitsap” for the extension of water and sewer services for the Riverstone Plat located on Harold Drive SE consisting of a thirty-nine (39) lot plat. The Board further authorizes the General Manager, on behalf of the District, to execute the Developers Extension Contract with Housing Kitsap.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District at a Regular Board meeting scheduled on June 21, 2022.

WEST SOUND UTILITY DISTRICT

Kitsap County, Washington

Jerry Lundberg
Chairperson

Susan Way
Vice Chairperson

James J. Hart
Secretary



DEVELOPER EXTENSION CONTRACT

RIVERSTONE PLAT

JUNE 21, 2022



DEVELOPER EXTENSION CONTRACT

THIS CONTRACT is entered into between WEST SOUND UTILITY DISTRICT, a municipal corporation of the State of Washington, hereinafter referred to as "District," and Housing Kitsap, hereinafter referred to as "Developer" (Insert full legal name of Developer on the preceding line).

The principal owner(s) of the Developer Company and their titles are as follows:
Kitsap County Consolidated Housing Authority dba Housing Kitsap
Heather Blough Executive Director

The Developer represents that it is a legal entity in good standing with the State of Washington, with all license and other fees currently paid. This contract shall be referred to as the "Developer Extension Contract" or "DEC".

IN CONSIDERATION of the foregoing recitals and mutual promises contained herein, the parties agree as follows:

I. GENERAL AGREEMENT

The Developer seeks to construct a water and/or wastewater system (hereinafter referred to as "Developer Improvement"), and thereafter connect the Developer Improvement into the utility system owned and operated by the District (hereinafter called "District System"). As a condition to the District permitting connection of the Developer Improvement into the District System, the Developer agrees to timely:

1. Be responsible for all costs and fees of planning and construction of the Developer Improvement.
2. Design the Developer Improvement to the standards and specifications of the District as set forth in this Contract.
3. Comply with all other conditions and obligations imposed upon it by this Contract.

Upon compliance with all conditions and obligations imposed herein on the Developer, the District agrees to accept the Developer Improvement, and ownership and all future maintenance thereof.

The common name of the Developer's project is Riverstone Plat and is generally located and described as follows: 39 lot single family Plat

II. LOCATION OF DEVELOPER IMPROVEMENT

The Developer shall complete the attached "EXHIBIT A", by inserting thereon the full and complete legal description of the real property owned by the Developer where the Developer Improvement will be located (hereinafter called "Developer Property"). If all or any portion of the Developer Improvement will be located outside the Developer Property, the rights-of-way(s) and/or

easement(s) required to connect the Developer Improvement to the District System shall also be fully and completely legally described and identified on EXHIBIT A. EXHIBIT A, by this reference is incorporated herein and made a part hereof. The Developer warrants and represents the information contained on EXHIBIT A is complete and correct.

III. DEVELOPER PROPERTY OUTSIDE THE DISTRICT

In the event the Developer Property is located wholly or partially outside the District's legal boundaries, any obligations placed on the District in this Contract are conditioned on the following requirements having first been met by the Developer:

1. The Developer Property shall be annexed into the District, subject to approval by the Kitsap County Boundary Review Board, in the manner required by law. The annexation shall include a service area acceptable to the District. At the sole discretion of the District, the District may not require annexation; however, in that event, the Developer must agree to pay all surcharges for out-of-District service.
2. Water and/or wastewater service received from the District is conditioned on compliance with all pertinent Growth Management Act requirements by the Developer.
3. The Developer shall be responsible for meeting all requirements for annexation of the Developer Property as required by law and all costs and fees associated therewith.
4. The Developer shall pay all legal, engineering, and District staff costs and fees incurred in assisting the Developer with the annexation. The Developer shall also pay the filing fee required by the Kitsap County Boundary Review Board for such annexation and all other annexation fees and costs of every kind and nature.

IV. COMPREHENSIVE DEVELOPMENT

As a condition precedent to the District's obligations under this Contract, the Developer shall construct the proposed Developer Improvement in conformance with the District's specifications, together with any amendments made thereto by the District to conform with the District's long-range plan, including any over-sizing of mains and pump stations necessitated by the comprehensive plan or as determined by the District in its sole discretion.

It is the policy of the District that the Developer extend any water main improvements to the most distant end of abutting and interior rights-of-way or easements, unless it is determined by the District, according to its policies and/or rules, that extension of the water main will not be necessary. Developers owning corner property shall extend the water main to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary.

It is the policy of the District that the Developer extend any wastewater main improvements to the most distant end of abutting and interior rights-of-way or easements unless it is determined by the District, according to its rules and policies, that extension of the wastewater main will not be necessary. Developers owning corner property shall extend the wastewater system to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary. The wastewater system shall be extended to the far end of the

development at depths, whenever possible, which enable the District to provide gravity service to upstream properties.

V. REIMBURSEMENT AGREEMENT (LATECOMER FEES)

The Developer may request a reimbursement agreement if the Developer Improvement abuts real property of persons other than the Developer's and the Developer does not include the signatures of the other property owners in this application or the District requires construction of oversize mains to serve other areas. However, if the amount that could be charged according to the scenarios set forth above is less than \$150 per lot to be developed of the abutting properties, a latecomer's agreement may not be granted by the District. The terms of any latecomer agreements entered into is contained in "EXHIBIT G", entitled "REIMBURSEMENT AGREEMENT", which by this reference is incorporated herein and made a part hereof.

VI. FEES

The Developer shall pay the following fees as part of this Contract, and as shown on the fee estimate:

- Administrative fee for the DEC
- Plan review fees for water and wastewater
- Construction observation fees for water and wastewater
- Meter installation fee
- Reimbursement fees, if applicable
- General Facility Charge for water
- General Facility Charge for fire flow and irrigation, if applicable
- Local Facility Charge for water, if applicable
- General Facility Charge for wastewater
- Facility Construction Fee for wastewater treatment
- Local Facility Charge for wastewater, if applicable

VII. DEVELOPER EXTENSION FEES

The administrative fee, plan review fees and construction observation fees shall be paid prior to approval of this Developer Extension Contract by the District. These fees represent estimates of the anticipated work required by the District for review and inspection of the Developer's project. If the District's work exceeds the above estimates, the Developer shall pay the additional plan review fee and/or construction observation fee when requested by the District.

VIII. REINBURSEMENT FEE

Any water reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a binding water availability letter. Any wastewater reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a sewer permit.

IX. GENERAL FACILITIES CHARGES (WASTEWATER, WATER, IRRIGATION)

The General Facility Charges are established by District resolution as amended from time to time.

Wastewater: The General Facility Charge (Wastewater) for residential, commercial, multi-family and other connections to the District system shall be paid in full at the time application is made for a sewer connection permit.

Water: The General Facility Charges (Water) for residential, commercial, multi-family, and other connections to the District System shall be paid in full at the time application is made for a binding water availability letter.

Irrigation: The General Facility Charges for irrigation for connections other than residential (i.e. multi-family, commercial, and institutional) to the District System shall be paid in full at the time application is made for a binding water availability letter. The General Facility Charges for irrigation is dependent upon on the size of the water meter and if the landscaping is drought-tolerant, in accordance with Kitsap County standards.

X. FACILITY CONSTRUCTION FEE FOR WASTEWATER TREATMENT

The Facility Construction Fee shall be paid in full at the time application is made for a sewer connection permit. For properties outside the boundaries of the Wastewater Treatment Plant ULID #1 or properties inside ULID #1 that have not previously paid the assessment, or any other properties that have not paid the wastewater treatment connection charge, a Facility Construction Fee shall be determined in accordance with District resolution.

XI. LOCAL FACILITY CHARGE

A Local Facility Charge is separate and payable in addition to the General Facility Charge. The Local Facility Charge would be utilized in an area where the District has invested District funds for the benefit of local properties. The collection of a Local Facility Charge reimburses the District for its investment by properties that derive the benefit. The Local Facility Charge for hookup to the District System shall be paid in full prior to the Developer Improvement being accepted by the District. The amount of a Local Facility Charge is established by District resolution as amended from time to time.

XII. SYSTEM DESIGN & OBSERVATION

1. **Plan Review.** Review of water and/or wastewater plans prepared by the Developer's engineer will be performed by the District. Plans prepared by the Developer's engineer shall conform to the District's graphic standards in effect at the time the plans are developed.

2. Observation of Construction / DRAWINGS / JOB SITE SAFETY

A. **District & Developer Inspections.** Observation of construction and testing of the Developer Improvement, review of materials, and verification of record drawing information will be made by District personnel. Observation of the Developer's construction shall be for the sole benefit of the District and shall not be a substitute for the Developer's own inspection process.

B. **Developer's Obligation Regarding Drawings.** The Developer shall be responsible for maintaining a red line set of drawings with all construction changes at the job site and available for review by the District at all reasonable times. The Developer shall provide the locations of the constructed facilities and all other information to be incorporated into the record drawings. After

completion of the project, the Developer shall provide the District record drawings and the District-specified electronic file that incorporate all field changes and any other record drawing information required by the District.

C. Job Site Safety. The Developer and its Contractor shall be solely responsible at all times for job site safety. The District assumes no responsibility for job site safety resulting from its observation of construction. The Developer and its Contractor are responsible for providing a safe work site for the District to observe construction at all times.

D. Residential Side Sewers. In no event shall the house side sewer service connection (from the sewer to the property line) ever be less than 6 inches, and the house side sewer lateral (from the property line to the house) ever be less than 4 inches.

E. Commercial Side Sewers and Clean Outs. Commercial development side sewers, grease interceptors, oil/water interceptors, clean outs and other pre-treatment systems shall be designed by a registered professional engineer and submitted to the District for review and acceptance prior to the time the Developer Improvements are made. Side sewers and clean outs may be designed for future structures, but shall not be installed until additional plans have been reviewed and accepted by the District and all applicable permits purchased and issued. The design calculations for commercial buildings shall be stamped by a professional engineer licensed in the State of Washington and submitted to the District for review and acceptance. In no case shall a commercial side sewer service connection or lateral be less than 6 inches.

F. Sewage Lift Stations. The design for any required sewage lift stations shall be completed by the Developer through a licensed engineer in the State of Washington in strict accordance with the requirements and details shown in the District's Developer's Extension Manual and provided to the District upon request.

XIII. CONTRACTORS, SUBCONTRACTORS, LABORERS, AND MATERIALMEN

1. List of Contractors, Sub-Contractors, Materialmen, & Suppliers. The District has a substantial interest in insuring the Developer Improvement is constructed and connected to the District System in a good, competent, and professional manner. Therefore, the Developer and/or additional owners agree to submit the names of all contractors, subcontractors, laborers, materialmen and suppliers or, in the event the Developer or additional owners are contractors, a statement that said Developer or additional owner(s) will perform said improvement. The District reserves the right to approve or disapprove of any contractor, subcontractor, materialmen, or supplier. The District will not unreasonably withhold approval

2. Review Process Utilized by District. In determining whether the Developer, additional owner, contractor, subcontractor, materialman or laborer is or is not satisfactory, the District may take into consideration said parties' prior experience in similar type improvement work, available manpower and equipment, financial ability, and prior work performed by such parties for or on behalf of the District or others. Such names and other information requested by the District shall be submitted to the District by the Developer prior to any construction being performed with respect to said real property described in this Contract.

3. Rejection by District of a Contractor, Sub-Contractor, or Supplier. If a party designated to perform services or supply materials regarding the Developer Improvement is not acceptable to the

District, the District will so notify the Developer, along with the reasons why, within fifteen (15) days after notification is provided the District of the name of such party. Upon such event, the Developer shall submit alternates, and said alternates shall likewise be subject to the same approval upon the same criteria as the original party submitted and notification will be given by the District within the same time period specified. All contractors and subcontractors performing work pursuant to this Contract shall be registered as a contractor pursuant to the provisions of RCW 18.27.

4. Skill Level of Contractor. The Contractor shall be skilled in the type of work required for the project and shall have performed similar type work in a professional manner in the past. The Contractor shall supervise and direct the Work using its best skill and attention. The Contractor shall employ a competent superintendent to represent the Contractor at the site at all times work is being performed.

5. Construction Methods. The Contractor and Developer shall be solely and completely responsible for and have control over construction means, methods, techniques, procedures, safety, and for coordinating all portions of the Work in a timely and professional manner.

6. Work Place Discipline. The Contractor shall enforce strict discipline and good order among persons performing the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall be responsible for the acts and omissions of the Contractor's employees, subcontractors, and their agents and representatives.

7. Notices Required by Public Authorities & Compliance with Laws. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on furnishing and performing the Work.

XIV. PERFORMANCE BOND

1. Performance Bond Requirement. The District reserves the right to require the Developer to furnish the District a performance bond between the Developer (or the Developer's Contractor) and the District upon the form included in this Contract and in an amount equal to the Engineer's estimated cost of the project, or actual cost if known, prior to the contractor's pre-construction conference with the District. Typically, the bond will be required if other properties or District obligations are or may be affected by the Developer's timely performance.

2. Alternative to Performance Bond. The District may accept, in lieu of a performance bond, an assignment of savings on the form enclosed in the documents.

3. Performance Bond Requirements. The performance bond shall require completion of all work within a period of two (2) years from date of the application's acceptance by the District in accordance with the plans and specifications prepared or approved by the District. Said bond shall also require the Developer to pay all persons furnishing labor and material and hold the District harmless from any claims thereon, whether any such claim may arise under the public works lien statutes or the mechanic lien statutes of the State of Washington; and compliance with the formal requirements of either or both said statutes. The District shall release the performance bond in accordance with the provisions of its final acceptance of the Developer Improvement.

XV. EASEMENTS & PERMITS

1. Easement Width & Location of Main therein. Easements for water or wastewater mains shall be a minimum of fifteen (15) feet wide. The center of the pipeline shall be not less than five (5) feet from the edge of the easement. The developer shall provide a wider easement if the District Engineer determines it is required.

2. Developer to Bear Easement Costs. Any required easement shall be obtained by the Developer at its sole cost and expense, and a true copy of such easement (a copy of the conveyance document to be later provided to the District and a description the easement's on ground location) shall be delivered to the District prior to the time Developer commences construction. Upon completion of construction and prior to acceptance of the Developer Improvement by the District in accordance with the provisions hereof, the original easement shall be recorded and granted by warranty deed from the Developer to the District.

3. Easement Title Policy / Survey Record / Easement Restrictions. The Developer shall provide all necessary easements at his sole cost, regardless of changes in the Contract Plans, together with evidence of title and a title insurance policy in the sum not less than \$1,000 per 500 feet of easement, establishing clear title in the grantor. The Developer shall also provide a Record of Survey or final plat-showing basis for control and sufficient information to verify the easement legal descriptions. All easements shall prohibit the construction of any structures, other improvements, or trees over the easement or in any location that would make it difficult for the District to easily access the easement for inspection and maintenance purposes.

4. Easement Conveyance. The Developer shall submit all required easements to the District using the conveyance form set forth in attached "EXHIBIT C", which by this reference is incorporated herein. In the event legal services may be required incident to any easements beyond review of the form thereof, the costs of such services shall be paid by the Developer in the amounts billed to the District before the District's acceptance of the Developer Improvement.

5. Developer to Obtain all Necessary Permits. All necessary permits and approvals from any governmental agency shall be obtained by the Developer directly at the Developer's expense. The District shall be provided with a copy of all such permits and approvals prior to the pre-construction conference between the contractor and the District.

XVI. EVIDENCE OF INSURANCE AND HOLD HARMLESS

1. Developer's Liability Insurance Obligation. The Developer's Contractor shall purchase liability insurance from and maintain such in a company or companies with a Best's rating of no less than A:VII and lawfully authorized to do business in Kitsap County, Washington. Developer's Contractor shall provide the District with written evidence of insurance covering public liability and property damage prior to the time construction of the Developer Improvement occurs. Insurance shall provide protection to the District from claims set forth below which may arise out of or result from the Contractor's operations and including operations by any tier of subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable for:

a) Claims under workers' or workmen's compensation disability benefit and other similar employee benefit acts which are applicable to the Work to be performed, including voluntary coverage

for entities exempt from mandatory coverage; all such coverage to be equivalent to mandatory coverage required by law;

b) Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

c) Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

d) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by any other person for any reason;

e) Claims for damages including explosion, collapse and underground (XCU) damages as applicable, other than to the Work itself, because of injury to or destruction of tangible property including loss of use resulting therefrom;

f) Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle; and

g) involving contractual liability insurance applicable to the Developer's and the Contractor's obligations under the indemnification and hold harmless clauses of this Contract.

2. Comprehensive Insurance. The Contractor's liability insurance shall be comprehensive type insurance and shall include all major divisions of coverage including Completed Operations Coverage.

3. Minimum Insurance Coverage Amounts. The Contractor's liability insurance shall be written for not less than the following limits of coverage or the limits required by law, whichever coverage is greater: \$2,000,000.00 for each occurrence with an aggregate limit of not less than \$2,000,000.00 combined single limit. The deductible, if any, shall not exceed \$5,000 and the Contractor shall be solely responsible for payment of the deductible amount.

4. Covered Parties on Insurance. The Developer's Contractor's liability insurance shall name the District and each of its commissioners, officers, employees, agents and consultants as named additional insureds. The Developer's liability insurance shall provide primary coverage. Other insurance carried by the additional insureds shall be deemed excess insurance.

5. Insurance Coverage Time Period. Insurance coverage shall be maintained without interruption from the date of commencement of the work until completion of the work, and at all times thereafter when the Contractor is correcting defective work. The Insurance certificate shall contain a provision that the District shall be notified in writing 30 days before the policies may be canceled or allowed to expire.

6. Indemnification / Hold Harmless Provisions. To the fullest extent permitted by law, the Developer and the Developer's Contractor agree to indemnify and hold harmless the District and each of its employees, agents, consultants, officers and shareholders from and against all claims, damages, losses, and expenses including but not limited to attorney's fees, arising out of or resulting from performance of the work; provided that such insurance shall also provide coverage regarding any

claim, damage, loss or expense attributable to bodily injury, sickness, disease, or death (including that sustained by the work Contractor's or any others working on the project), or to injury to or destruction of tangible property including the loss of use therefrom, regardless of whether such liability, claim, damage, loss, or expense was caused in part by any negligent act or omissions, whether active or passive, by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.

7. Indemnification / Hold Harmless Provisions to be Broadly Construed. The Developer's and Contractor's liability to the District under this Indemnification Clause shall not be limited by any legal limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. The indemnification and hold harmless rights of the District in regards to the Developer shall be liberally construed in favor of the District.

XVII. GRADING ROADS

1. Pre-Construction Road Work by Developer. Unless otherwise specifically determined in writing by the District, the Developer shall grade all roads to the design subgrade elevations prior to the start of construction and shall advise the District in writing of any changes that may be contemplated during construction prior to such work being performed.

2. Post-Work Changes to Road Elevation or Subgrade. If the Developer changes, or causes to be changed, the subgrade or elevation of the road after completion of the Developer Improvement, or any part thereof, the Developer shall be responsible for all costs incurred for any additional work required as a result of said change in subgrade elevation. This obligation shall remain in full force and effect until the District, Kitsap County and/or any other pertinent municipality possessing jurisdiction where the work is performed releases the right-of-way or road construction bond or any other required bond in connection of the roads within the area.

XIII. DEVELOPER REQUIREMENTS PRIOR TO START OF CONSTRUCTION

The Developer shall not commence construction of the water and/or wastewater system until the following conditions have been fulfilled:

1. The District has completed review of the construction plans and specifications for the Developer Improvement and approved them for construction.
2. Developer's engineer has submitted a construction cost estimate to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full.
4. Copies of all necessary permits have been received by the District.
5. The performance bond, if required by the District, or other approved method of assuring construction compliance is on file with the District.
6. Evidence of insurance as required in this Contract is on file with the District.

7. Road grading as required by the District or other pertinent parties concerning the Developer Improvement is complete.
8. All easements have been obtained.
9. Utility construction staking is complete.
10. Material submittals have been approved by the District.
11. A pre-construction conference has been held as required in this Contract.
12. Contractor provides the District with an advance 48-hour notification in writing of intent to start work on the Developer Improvement.

XIX. CONSTRUCTION

1. Construction Standards. The Developer shall construct the Developer Improvement in accordance with the District's specifications and standard details. Construction of the Developer Improvement shall be observed by the District in such manner and at such times as the District deems reasonably necessary to assure construction of the Developer Improvement will conform to the plans and specifications approved by the District. The Developer shall permit such observation and cooperate at all times with District personnel in providing reasonable advance notice during the various construction phases as required by the District. The advance notices required by the District personnel will be identified at the pre-construction conference, but in no case shall the advance notice be less than two full working days.

2. District to Have Safe Access to Project. The Developer shall provide the District and its representatives safe access to every part of the work project at all times work is in progress for observation, inspection and testing, all as determined necessary by the District.

3. Observation of Water Lines Prior to Backfilling. The District requires all water lines and mains constructed be observed by the District prior to backfilling. If backfilling occurs prior to such observation, the Developer shall excavate and expose all construction for observation by the District, at no cost to the District. All "as built" information shall be provided by the Developer and verified by District personnel prior to the Contractor being permitted to backfill.

4. Developer Solely Responsible for Performing Work in Accordance with District Standards & Specifications. Any observations by the District, or tests, inspections or approvals by others shall not relieve the Developer and the Contractor from their obligation to perform the work in accordance with the District's Specifications and the approved Contract Drawings.

5. Damage to County Facilities. The Developer agrees that, in the event any authorized official of the Kitsap County Public Works Department complains to the District that the Developer damaged any County facilities, the District shall have the option, twenty-four (24) hours after notification to the Developer, of specifying such complaints or damage, to make such emergency repairs or restoration work as the District deems necessary; and in such event, the District shall have the right to be reimbursed for the reasonable cost thereof from the proceeds in the security deposit. Such notices shall be hand delivered or mailed to the Developer by certified mail, return receipt requested.

XX. DISTRICT ACCEPTANCE OF THE DEVELOPER IMPROVEMENT

The Developer Improvement shall not be accepted by the District until the following requirements are met to the District's satisfaction:

1. District inspection of the Developer Improvement and Developer completion of the punch list items have been completed. Inspection, testing, and lamping reports for the wastewater main have been completed and are on file at the District, and CCTV video tapes or DVD's are submitted and approved.
2. Final construction costs have been submitted to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full, including construction observation fees and other services provided by the District.
4. Record drawings are complete and certified correct by the Contractor. One complete record set is received by the District on mylar and one set on bond paper. District also shall receive the electronic file of the record drawings in the District-specified format. The electronic copy will be used to update system mapping.
5. All duly Executed Bills of Sales and Conveyances have been received by the District in the form set forth in the attached EXHIBIT B.
6. Easements on the District's form (EXHIBIT C) for all completed water and/or waste-water improvements have been furnished to the District, accepted by the District, and recorded with the Kitsap County Auditor; and the easement title insurance policy, record of survey or final plat have been submitted and accepted by the District.
7. The Developer has furnished the District with an affidavit warranting that all bills pertaining to the Developer Improvement have been paid and there are no liens against the Developer Improvement (EXHIBIT D).
8. The Developer has furnished the District with a two-year guarantee, in the form of a maintenance bond (EXHIBIT F), performance bond extension, or an assignment of funds, that the Developer Improvement will be free of defects in labor and materials during this term. The two-year guarantee period shall commence on the date of acceptance of the completed Developer Improvement. The maintenance bond shall be for 10% of the final construction costs with a minimum bond amount of \$2,000.
9. The District shall not be obliged to provide utility service to the property described in this Contract until all above requirements have been met by the Developer to the District's satisfaction.
10. The District shall not be obligated to provide utility service to the property described in this Contract if construction by third parties of facilities to be deeded to the District has not been completed and accepted by the District, if such third party facilities are necessary to provide utility service to the property described in this Contract.

Unauthorized Connection of Developer Improvement to District System. When an unauthorized connection of the Developer Improvement to the District System is made, the District may implement the following:

1. It may impose a fine for any unauthorized sewer main connection to any District sewer or pump station of up to \$5,000, plus all District costs to disconnect the unauthorized connection and repair the area to its original condition, plus double connection fees upon request for connection by the Developer.
2. It may impose fines for any unauthorized connection of double the normal General Facility Charge fee and Facility Construction Fee.

XXI: LIMITATION OF PERIOD FOR ACCEPTANCE

1. Time Period for Acceptance of Developer Improvement. The Developer Improvement shall be completed and accepted by the District according to its standards within two years of the date of acceptance of this application by the District. If the extension is not completed and accepted within two years from the date the District accepts the application, the Developer's rights under this Contract shall cease, and no additional service shall be connected to such Developer Improvement unless and until the Developer makes a new application which is accepted by the District, or the District consents to the renewal of the existing application. The Developer shall pay all additional administrative, legal, engineering and construction observation costs involved, as determined by the District. Any required new application or renewed contract shall be subject to any new or amended standard specifications, standard details, resolutions or policies of the District, including those related to any increased fees or connection charges, which have taken effect since the execution of the original contract before the District accepts the extension.

2. Notice to Commence Work by District. If the District determines, in its absolute discretion, that it is necessary for the Developer Improvement be completed in order for the District to provide water and/or wastewater service to other property, the District may give the Developer and/or additional owners notice that construction of the Developer Improvement must be commenced within sixty (60) calendar days of the notice by the District to the Developer and/or additional owners, provided that plans have been prepared and approved. If construction is not commenced within the time specified, the District may in its sole discretion terminate this Contract with no resulting liability of any kind as a result of such termination. After any such termination, the District shall retain all payments made by the Developer to the District as the District's sole property and the District shall be free to proceed with construction of the water and/or wastewater improvements within the area described in the developer extension in the manner and method provided by law. If delay in plans is occasioned by failure of the Developer to provide the necessary data to the District, this contract likewise may be terminated by the District with no resulting liability incurred by the District to the Developer, and the District may proceed with construction of the improvements in the manner and method provided by law if the data required to be furnished by the Developer to complete the engineering have not been supplied to the District within 30 calendar days of date of demand thereof by the District upon said Developer.

3. Construction in Phases. The Developer Improvement may be constructed in phases with prior Board approval as conditioned and as specifically designated in the plans and specifications. Acceptance may also be on a phased basis when all requirements have been met. There will be no conditional acceptance by the District of any work performed by the Developer.

XXII. FINAL ACCEPTANCE

1. Conveyance of Developer Improvement to District. Upon completion of the work and approval of the Developer Improvement and all work associated therewith by the District, the Developer shall, as a condition of acceptance by the District, convey the Developer Improvement and all necessary easements to the District by Bill of Sale in the form as set forth on the attached EXHIBIT B, and by Statutory Warranty Deed as to any easements in the form identified herein.

2. Acceptance by District. Upon full compliance with this Contract including connection of the Developer Improvement to the District System and completion and conveyance of the Bill of Sale and any required easements, the District shall accept the Developer Improvement by written notification to the Developer in letterform. Upon acceptance, the Developer shall have the right to use the District System subject to all District regulations, conditions, and charges as it determines to be reasonable and proper from time to time.

XXIII. CORRECTION OF DEFECTS OCCURRING OR DISCOVERED WITHIN WARRANTY PERIOD

1. Post Acceptance Defects in Developer Improvement. If defects in the Developer Improvement are discovered after acceptance thereof by the District within the two-year warranty period, the Developer shall start work to remedy any such defects within seven days receipt of written notice from the District. In the event the Developer does not commence and/or accomplish corrections within the time specified by the District, the work may be accomplished by the District at its option, and the cost thereof shall be paid by the Developer immediately upon demand being made by the District. In emergencies, where public health concerns are involved or where damage may result from delay and/or where loss of service may result, corrections may be made by the District upon discovery, in which case the cost thereof shall be borne by the Developer immediately upon demand being made by the District.

2. Developer Responsible for Work Defects within Warranty Period. The Developer shall be responsible for all expenses incurred by the District of every kind and nature resulting from defects in the Developer's work, including: all actual damages; costs of materials and labor expended by the District in making repairs; and costs of engineering, construction observation, and supervision by the District.

XXIV. PROJECT DOCUMENTS

The documents for the project involving the Developer Improvement as identified herein shall include the following:

- Executed Developer Extension Contract
- Standard Specifications and Details as identified in this Contract
- Change orders after Contract is signed
- District approved plans for the Developer Improvement
- Detailed drawings, Special Specifications, and written instructions by the District Engineer or District Manager concerning the Developer Improvement
- Addenda relating to the work project when written
- Reference Specifications concerning the project
- Performance bond or equivalent instrument as identified in this Contract
- Evidence of insurance as required in this Contract

XXV. SAFETY OF PERSONS AND PROTECTION OF PROPERTY

The Developer shall be solely and exclusively responsible for construction safety means and methods, and for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all its work relating to the Developer Improvement. The Developer shall insure the Contractor takes all necessary precautions for safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. Employees on the project and other persons who may be affected thereby.
2. The work, materials, and equipment incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors or other sub-subcontractors.
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation, or replacement in the course of construction.

Safety Notices. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

Construction of Safety Related Facilities. The Developer shall erect and maintain, as required by law, conditions and performance of the contract, necessary fences and other safe-guards for safety and protection of persons/property on and off the work site and shall: 1) post danger signs and other warnings against hazards, 2) promulgate safety regulations, and 3) notify owners/users of adjacent sites/utilities when the Contractor's operations may affect them.

Hazardous Materials. When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Developer and its agents shall exercise utmost care and carry out such activities under supervision of properly qualified personnel.

Remedying Loss to Property. The Developer shall promptly remedy damage and loss to property that the Developer is required to protect caused in whole or in part by the Developer, Contractor, a subcontractor, or anyone directly or indirectly employed at the worksite.

Safety Officer. The Developer shall designate a responsible and competent member of the Developer's organization at the work site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Developer in writing to the District.

Safety Program Maintenance. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required in connection with the project work and shall send copies of all accident, injury, or work-related illness reports and of all notices of unsafe conditions to the District and appropriate governmental authorities.

XXVI. NO ASSIGNMENT WITHOUT DISTRICT APPROVAL

The Developer shall not assign this Contract or any responsibilities imposed upon it hereunder without first obtaining the prior written consent of the District, which the District may grant or withhold in its sole discretion. Written documents as required by the District of any proposed assignment shall be filed with the District by the Developer at the time of any assignment, together with the written consent of the District.

XXVII. ATTORNEYS FEES AND COSTS

In the event either the District or the Developer commences any legal action relating to the provisions of this Contract, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Contract, to its reasonable attorney's fees and costs involved in such action, including those incurred on appeal.

XXIII: GOVERNING LAW/FORUM

This Contract shall be construed and enforced in accordance with the laws of the State of Washington. Any suit relating to, or to enforce the provisions of this Contract, shall be brought in Kitsap County, Washington Superior Court.

XXIX. SEVERABILITY OF PROVISIONS

The finding under law that any one or more provisions or any portion of a provision in this Contract is invalid, unenforceable, or illegal, shall not impair the validity or enforceability of any other provision hereof or the Contract Documents as a whole.

XXX. EXECUTION

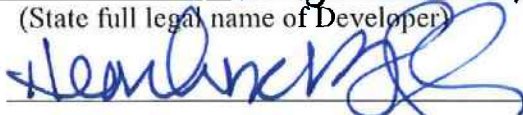
The undersigned Developer and any additional owners warrant and represent they constitute the owners of all real property that is the subject matter of this Contract and, upon request by the District, agree to provide title insurance, establishing to the satisfaction of the District that the parties executing this application constitute the owners of all real property described and have the authority to execute this Contract with respect to said real property and on behalf of any party legal entities.

Dated this 6th day of June, 20 22.

DEVELOPER:

Kitsap County Consolidated Housing Authority
SOA HOUSING KITSAP

(State full legal name of Developer)

by: 

Print Name: Heather Blough

Title: Executive Director

Its duly authorized representative for entry into this Contract

EXHIBIT "A"

DEVELOPER EXTENSION CONTRACT / LOCATION OF DEVELOPER IMPROVEMENT

Project Name: Riverstone

The proposed Developer Improvement will be installed on, under, and/or over: roads; easements; and/or other rights-of-way. The Developer Improvements shall be for the use and benefit of the real property hereafter described, which real property is owned by the Developer and/or other persons who are contributing to the costs of said Developer Improvement and said other owners join in this application and are referred to as "additional owners" in this Contract. The said real property is described as follows:

Legal description of Premises-Insert or attach all applicable legal description(s) and tax parcel number(s)

Property 1: 352401-4-019-2007

The East half of the Northeast quarter of the Southwest quarter of the Southeast quarter of Section 35, Township 24 North, Range 1 East, W.M., in Kitsap County, Washington;

Except the following: Beginning at the Southeast corner of the above described property: thence North 88°05'47" West a distance of 103.97 feet along the South line; thence North 38°08'10" West a distance of 349.05 feet to the West line; thence North 01°04'54" East along said West line a distance of 126.53; Thence South 38°08'10" East a distance of 513.48 feet to the True Point of Beginning;

And except SE Lund Avenue;

Also except that Portion lying Southwesterly of Port Orchard Bypass (aka SE Lund Avenue).

Property 2: 4625-000-011-0202

Lot B, Short Plat No. 6145, recorded under Auditor's File No. 9206100262 and 9206100265, being a portion of Lot 11, Port Orchard Villa Tracts, as recorded in Volume 4, Page 100 of Plats, records of Kitsap County, Washington.

**WEST SOUND UTILITY DISTRICT
RESOLUTION 1023-22**

**A RESOLUTION OF THE WEST SOUND UTILITY DISTRICT
BOARD OF COMMISSIONERS
APPROVING EQUIPMENT PURCHASE
FROM WHITNEY EQUIPMENT FOR THE
ORCHARD BLUFF LIFT STATION**

WHEREAS, the Wastewater 2022 Capital Improvement Budget contains funding for equipment needs; and

WHEREAS, the Orchard Bluff Lift Station is in need of a replacement pump; and

WHEREAS, the District solicited a proposal from Whitney Equipment to provide the District with needed replacement equipment for the Orchard Bluff Lift Station; and

WHEREAS, Whitney Equipment is a sole source provider for specific equipment needed by the District; **NOW, THEREFORE**,

THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:

Section 1. The District's Board of Commissioners hereby approve the purchase of a new pump for the Orchard Bluff Lift Station from Whitney Equipment as identified in Exhibit "A" in the amount of \$28,834.78 plus WSST in the amount \$2,652.80 and freight in the amount of \$605.00 for a total of \$32,092.58.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District at a Board meeting scheduled on June 21, 2022.

WEST SOUND UTILITY DISTRICT

Kitsap County, Washington

Jerry Lundberg
Chairperson

Susan Way
Vice Chairperson

James J. Hart
Secretary



16120 Woodinville-Redmond Road NE, Suite 3
Woodinville, WA 98072 Phone: (425) 486-9499

2501 Columbia Way Suite 300
Vancouver, WA 98661 Phone: (360) 694-9175

6/17/2022

Quote #: 38554 - 0

To: West Sound Utility District

Attn: John Tapia

Email: jtapia@wsud.us

Phone: 360 876-2545

Project Name: West Sound Utility-Orchard Bluff LS Spare Pump

The following is Whitney Equipment Company's proposal for equipment we can furnish for the above referenced project. A detailed list of the equipment and services included in this proposal is shown in the following Scope of Supply. Only items listed in the Scope of Supply are included in this proposal. This proposal is valid for 30 days from the date listed above. Please contact us to verify pricing and availability beyond 30 days as pricing and availability may vary. The conditions of sale associated with this proposal are attached.

Engineering calculations and design services are included only when specifically listed in the Scope of Supply. Field or startup services are not included unless specifically listed in the Scope of Supply. If additional field or onsite assistance is needed beyond what is included in the Scope of Supply, it can be supplied at a rate of \$165.00/hour at the job site, plus travel time and expense. Unless specifically listed in the following Scope of Supply, we do not include haulage, unloading including provision of lifting equipment, permits, bonds, insurance, installation, sales or use taxes or duties of any kind, power, chemicals, water, concrete, grout, anchor bolts, controls, wire, conduit, lights, fans, piping, valves, fittings, drains, meters, gauges, signs, safety equipment, labor, tools, field paint, lubricants, or any other items not listed as included.

Prices are firm for 30 days. Purchaser must also pay any costs incurred for additional field or onsite assistance no later than 30 days after receipt of an invoice for field or onsite services from Whitney Equipment Company.

The equipment will be coated with the manufacturers' standard preparation and coatings unless special coatings are listed in the Scope of Supply. Equipment will be prepared for shipment per the manufacturers' standard packing procedure. The purchaser is responsible for receiving all items including promptly inspecting for damage, noting damages, and filing for all missing or damaged items in a timely manner. Freight shall be standard ground or ocean freight unless otherwise listed. The purchaser is responsible for proper storage and handling of the equipment per the manufacturer's recommendations prior to installation to ensure warranty coverage. Warranty coverage shall be manufacturer's standard warranty unless specifically listed in the Scope of Supply.

This job is being handled by Stephen Clark, phone 425-205-2732. Please call if you need further information or prices.

SCOPE OF SUPPLY

Spare Flygt Pump to Match Existing 3153.095-0568 Serial# 1560002 & 1560003.

Quantity	Product / Description	Price per Unit	Total Price
1 each	31530950568 NP3153.095-275 Flygt NP3153.095 23HP, 460V, 3PH Submersible Pump with N-275 Hard Iron Impeller, FM(Explosion Proof Rating), FLS(Fluid Leak Sensor), 3" Discharge & 100' Power Cable.	\$28,834.78	\$28,834.78

Sub-Total: \$28,834.78

Freight: \$605.00

TOTAL: \$29,439.78

Lead Times: Estimated 14-16 Weeks

Freight Terms: FOB Factory, prepaid and added to invoice

Sales tax is not included unless specified.

Payment Terms: Net 30

Sincerely,

Stephen Clark, Inside Sales

CC: Brad Vande Vusse, Account Manager

**WHITNEY EQUIPMENT CO., INC.
WOODINVILLE, WA
STANDARD CONDITIONS OF SALE**

These are Whitney Equipment Co., Inc., the Seller, Standard Terms and Conditions and the basis of our offer to the Buyer, unless specifically altered in writing as permitted herein. Any changes may affect the quoted price. These Standard Terms and Conditions and the bid quote, purchase order, or other order form to which they are attached (the "Bid Quote") form a contract between Buyer and Seller for the sale of products described in the Bid Quote (the "Contract").

ACCEPTANCE: Submission of this Contract to Buyer constitutes Seller's offer to the Buyer and on acceptance becomes a binding contract on the terms set forth herein. Buyer's acceptance is expressly limited to the terms of this Contract. Seller rejects all terms included in any response by the Buyer to this Contract that are in conflict with, inconsistent with, or in addition to the terms and conditions contained herein. But if a conflict arises between the terms of a purchase order first issued by Buyer and the terms of this Contract, the terms of this Contract shall take precedence.

ENTIRE AGREEMENT: The Contract comprises the entire agreement between the Buyer and the Seller, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. This Contract prevails over any terms and conditions of purchase provided by Buyer, regardless of whether or when the Buyer has submitted its purchase order or such terms. In addition, implied terms and conditions from the Buyer's contracts with other entities are not valid or enforceable with respect to this Contract. Fulfillment of the Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend this Contract.

GOVERNING LAWS: Seller will comply with all laws applicable to Seller during sale of the products. Buyer will comply with all laws applicable to Buyer during operation or use of the products. The laws of the State of Washington shall govern the validity, interpretation, and enforcement of any order of which these provisions are a part, without giving effect to any rules governing the conflict of laws. Assignment may be made only with written consent of both parties. Buyer shall be liable to the Seller for any attorney's fees and costs incurred by Seller in enforcing any of its rights hereunder. Unless otherwise specified, any reference to Buyer's order is for identification only.

JURISDICTION AND VENUE: Any legal suit, action or proceeding arising out of relating to this Contract shall be commenced in federal or state court located King County, Washington and Seller and Buyer (i) irrevocably submit to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding and (ii) irrevocably waive (to the extent permitted by applicable law) any objection which they now or hereafter may have to the laying of venue of any such action or proceeding brought in any of the foregoing courts in and of the State of Washington, and any objection on the ground that any such action or proceeding in any such court has been brought in an inconvenient forum.

ATTORNEYS FEES AND EXPERT COSTS: The prevailing party in any legal suit, action, or proceeding arising out of relating to the Contract shall be awarded its reasonable attorneys' fees and experts costs.

WARRANTY:

THE SELLER MAKES NO WARRANTIES ON ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS CONTRACT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY, (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. BUT THE BUYER SHALL RECEIVE WARRANTIES, IF ANY, PROVIDED BY THE MANUFACTURER OF THE PRODUCTS SOLD UNDER THIS CONTRACT. THE SELLER IS EXPRESSLY EXCLUDED FROM ANY WARRANTY AND ALL CHARGES, FOR LABOR, INSTALLATION, REMOVAL, REPAIR, REINSTALLATION, SHIPPING, UTILITIES, EQUIPMENT RENTAL, OTHER REQUIRED MATERIALS, OR ANY OTHER ITEMS. THE PARTIES AGREE THAT THE BUYER'S SOLE AND EXCLUSIVE REMEDIES SHALL BE AGAINST THE PRODUCT MANUFACTURER AS PROVIDED HEREIN. THE BUYER AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, DOWN TIME, OPERATING OR MAINTENANCE COSTS, INJURY TO PERSONS OR PROPERTY, OR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO BUYER. BUYER SHALL FOLLOW ALL STORAGE, OPERATION, AND MAINTENANCE PROCEDURES SPECIFIED BY THE MANUFACTURER FOR WARRANTY COVERAGE, FAILURE TO FOLLOW THESE PROCEDURES INCLUDING DOCUMENTATION MAY RESULT IN LOSS OF WARRANTY COVERAGE.

TAXES: Seller does not include any Federal, State, City, County, or other sales, custom duties, or taxes such as sales, use, excise, retailer's, occupation or similar taxes and fees, in the Contract Price unless otherwise explicitly stated in writing. Any taxes not included in the Bid Quote will be added to the Contract Price. In lieu of paying such taxes to the Seller, the Buyer may furnish the Seller with a Tax Exemption Certificate or other legal and appropriate taxing authorities at any time.

PAYMENT TERMS: All quotations or proposals are in US Dollars unless explicitly stated otherwise in writing. Seller shall submit invoices for payment to Buyer for percentages of the Contract Price as described in Bid Quote. Buyer must pay all invoices submitted by Seller no later than 30 days after the date of the invoice. If the shipment is delayed by the Buyer, date of readiness for shipment shall be deemed the date of shipment for payment purposes. The Seller may require advance payment or a certificate of deposit, or may otherwise modify credit terms, should the Buyer's credit standing not meet the Seller's requirements. A service charge of 2.5% per month on the unpaid balance will be charged on all overdue monies payable. Buyer shall not assign or transfer their contract or any interest in it, or monies payable under it, without the written consent of Seller and any assignment made without such consent shall be null and void. Buyer agrees to pay all collection costs and costs of suit, including reasonable attorney fees, in the event Seller institutes collection action for overdue account. Seller expressly reserves all available lien rights in connection with any transaction between the parties. Unless explicitly agreed upon in writing, retainage against the contract amount is not allowed. The Seller reserves the right to repossess all equipment that is not paid for in full per this Contract's payment terms.

CREDIT CARD PAYMENTS: All credit card payments will require an additional 2% surcharge in addition to the Contract Price listed in the Contract. All credit card payments over \$5000.00 require written pre-approval by the Seller prior to processing; approval is not guaranteed.

CREDIT: Buyer is required to provide all necessary credit information to Seller with each order, including bank reference, bonding company, or other necessary information with complete names, addresses, phone numbers, personal references, and account and bond numbers. The Seller will determine, in its sole discretion, what is acceptable and what credit rating is required for the Seller to allow a purchase on credit.

PRICE: The prices specified are in U.S. currency, payable free of all expense to the Seller for collection charges.

STARTUP PAYMENTS: If startup services are included in this Contract, the pre-agreed upon payment amount shall be due when startup is complete. If startup is delayed more than 90 days after equipment delivery, payment for startup shall be due 90 days after equipment delivery prior to the startup occurring. Delaying in paying this portion of the contract is subject to the PAYMENT TERMS above.

SHIPMENTS AND DELIVERY: Delivery and shipping times are Seller's best estimate and do not include product approval time or order processing time. Seller is not liable for any damages, fees, costs, expenses or penalties arising from (1) loss of or damage to product in transit or (2) delays in shipping or delivery of the product, including all delays caused by an accident; riots; insurrections; national emergency; labor disputes of every kind however caused; embargoes; non-delivery by suppliers; delays of carriers or postal authorities; or governmental restrictions, prohibitions, or requirements. Seller may, in its sole discretion, without liability or penalty, make partial shipments of products to Buyer. Each shipment will constitute

a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's order. Cost of handling and freight is only included when it is explicitly listed in this Contract.

NON-DELIVERY: The quantity of any installment of products as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Any liability of Seller for non-delivery of the products shall be limited to replacing the products within a reasonable time or adjusting the invoice respecting such products to reflect the actual quantity delivered.

APPROVALS: Buyer is responsible for obtaining approval on products from project owners and engineers. The Seller represents only those products are as described in this Contract. The Seller does not warrant that the products described will be approved or otherwise satisfactory to project owners or engineers, or that products meet project specifications. Seller does not guarantee compliance with any codes or laws unless explicitly stated in this Contract. Performance of the overall system that incorporates the products is not guaranteed.

OCCUPATIONAL SAFETY AND HEALTH ACT of 1970 – Seller does not warrant or represent that any of Seller's products by themselves or in a system or with other equipment will conform to or comply with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder, or any other federal, state, or local law or regulation of the same or similar nature.

LIMITATION OF LIABILITY - NEITHER SELLER, NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT, WARRANTY, FAILURE OF A REMEDY TO ACHIEVE ITS INTENDED OR ESSENTIAL PURPOSES, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR COSTS OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, OR FOR INDIRECT, SPECIAL, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR CLAIMS BY BUYER FOR DAMAGES OF BUYER'S CUSTOMERS. SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS CONTRACT SHALL NOT EXCEED THE CONTRACT PRICE, PROVIDED HOWEVER, IF THE BID QUOTE INCLUDES FIELD OR STARTUP SERVICE, SELLER'S LIABILITY FOR SAID SERVICES SHALL BE LIMITED TO THE VALUE OF THE SERVICES. BUYER AND SELLER AGREE THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH BUYER MAY HAVE HEREUNDER AND SHALL BE GIVEN FULL FORCE AND EFFECT REGARDLESS OF WHETHER ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

STORAGE – If for any reason Buyer fails to accept products that have been delivered by Seller, or if Seller is unable to deliver the products because Buyer has not provided appropriate instructions, documents, licenses, or authorizations, then Seller may place the products in storage at Buyer's cost and expense, which includes the cost of storage, shipping fees, insurance, and other incidental expenses. The Buyer carries risk of loss for products in storage.

TITLE - Title to the products and risk of loss or damage passes to Buyer upon delivery of the products at the Point of Delivery listed in the Bid Quote. As collateral security for the payment of the Contract Price for the products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to, and under the products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Washington Uniform Commercial Code. Buyer agrees to perform all additional acts necessary to perfect and maintain said security interest.

INSURANCE: Buyer shall, at its own expense, purchase, maintain and carry adequate insurance for the products to protect against loss or damage from any external cause, including losses from fire, wind, water, or other causes. Insurance coverage must be maintained with insurance companies legally authorized to do business where said products are located in an amount at least equal to the value of said products until the products are accepted and paid for in full. Upon Seller's request, Buyer shall provide Seller with a certificate of insurance from Buyer's insurer evidencing the insurance coverage that is satisfactory to Seller. The certificate of insurance must name Seller as an additional insured. In no case does the Contract Price, even if inclusive of freight, cover the cost of insurance beyond the Point of Delivery specified in the Bid Quote]

CANCELLATION: The Buyer may cancel its order only upon written notice, and in turn will make payment to Seller of reasonable cancellation charges specified by Seller.

ORAL STATEMENTS: The Seller's personnel may have made oral statements about the products described in this Contract during the sales process. Such statements do not constitute warranties or guarantees and shall not be relied on by the Buyer. The entire contract is embodied in this writing. This writing constitutes the final expression of the parties' agreement, and it is a complete and exclusive statement of the terms of that agreement.

CHANGES: Seller reserve the right to make changes and to substitute other material as needed to make shipments and fulfill orders under this Contract.

ERRORS: Seller reserves the right to correct clerical or stenographic errors or omissions.

STATUTE OF LIMITATIONS - To the extent permitted by applicable law, any lawsuit for breach of contract, including breach of warranty, arising out of the transactions covered by this order, must be commenced by the Buyer not later than twelve (12) months from the delivery of Seller's Products or the last day Seller performed any services, whichever is earlier.

INSPECTION: Buyer shall inspect Seller's Products upon receipt, and if Buyer's inspection reveals any defects in the Products, Buyer shall notify the Seller within three (3) days after receipt of the Products of any claim Buyer might have concerning such defects in the Products discovered by Buyer. Buyer's failure to notify Seller within such a three (3) day period shall constitute a waiver by Buyer of all claims covering such defects in the Products. It is the Buyer's responsibility to inspect for shipping damage upon delivery and to initiate a damage claim with the freight carrier. Damage occurring in-transit by the freight carrier must be claimed by the Buyer and is not the Seller's responsibility.

NOT INCLUDED: Seller does not include any item not specifically listed as included. References to specifications and drawings in the Scope of Supply section of the Bid Quote does not indicate that all items in those documents are included in the Scope of Supply. Unless clearly included in this Contract, engineering and design services are not included in this Contract.

FREIGHT: Prices quoted are F.O.B. point of manufacture and do not include freight unless specifically listed as included. Title passed to the Buyer at the Point of Delivery listed in the Bid Quote and all freight claims are the responsibility of the Buyer.

BACKCHARGES will not be accepted unless approved by Seller, in writing, before any work is done.

DELAYS: Price and terms and conditions are subject to revision if manufacture is not released at time of order placement or drawings for approval are not returned within 30 days from receipt by customer, or manufacture is released and subsequently held or delayed by the customer for more than 30 days, or customer requests longer than quoted shipment. If Seller suffers delay in performance due to any cause beyond its control, including but not limited to act of God, war, pandemic, act or failure to act of government, act or omission of Buyer, fire, flood, strike or labor troubles, sabotage, or delay in obtaining from others suitable services, materials, components, equipment or transportation, the time of performance shall be extended a period of time equal to the period of the delay and its consequences. Seller will give Buyer notice in writing within a reasonable time after the Seller becomes aware of any such delay.

DECOMPOSITION AND WEAR: Decomposition by chemical action and wear caused by the presence of abrasive materials shall not constitute defects.

BUYER DATA - Timely performance is contingent upon the Buyer supplying to the Seller, when needed, all required technical information, including drawing and submittal approval, and all required commercial documentation. The Buyer shall also supply and complete all shipping delivery information, pre-delivery checklists, and pre-startup checklists in a timely manner or the overall schedule of the project may be impacted at no cost to the Seller regardless of any potential agreed upon damages.

BUYER SUPPLIED COMPONENTS - Buyer acknowledges that the products purchased by Buyer under this Contract may contain products supplied by the Buyer or supplied by a third party at the Buyer's direction ("Buyer Supplied Components"). Buyer Supplied Components are not covered by any warranty or guarantee in this Contract. For the avoidance of doubt, Seller makes no representations or warranties with respect to any Buyer Supplied Components. Seller disclaims any liability arising from Buyer Supplied Components delivered late, damaged, defective, or nonconforming. In no event shall Seller be liable for consequential, indirect, incidental, special, exemplary, punitive damages, or lost profits, arising out of or relating to late delivery of or defective Buyer Supplied Components. Subject to the terms and conditions of this Contract, Buyer shall indemnify, defend and hold harmless Seller and its representatives/officers, directors, employees, agents, affiliates, successors and permitted assigns ("Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorney and expert fees, fees and costs of enforcing any right to indemnification under this Contract, and the cost of pursuing any insurance providers, incurred by Indemnified Party in a final judgment relating to any third-party claims arising from defective Buyer Supplied Components.