

NORTHEAST SAMMAMISH SEWER & WATER DISTRICT
CONSTRUCTION CONTRACT - SMALL WORKS

THIS AGREEMENT is made and entered into this ____ day of _____, 20__ by and between NORTHEAST SAMMAMISH SEWER & WATER DISTRICT, a Washington municipal corporation ("District") and _____ ("Contractor"):

R E C I T A L S:

A. District requires certain work to be performed ("Work") in accordance with the plans and specifications ("Plans") prepared by District's engineer or as determined by District Staff identified as follows:

The Plans are incorporated by reference as if set forth herein in full.

B. The estimated cost of the Work, including taxes, is less than \$200,000 and, therefore, solicitations for bids have been requested from contractors registered on District's Small Works Contractor Roster. Alternatively, District has declared an emergency with respect to the work or the cost is less than \$10,000.

C. Contractor has submitted a quote for the Work. District authorizes Contractor to perform the Work in accordance with the terms set forth below, now therefore,

IN CONSIDERATION of the mutual covenants herein contained, the parties hereby agree as follows:

1.0 **Scope of Work.** Contractor shall perform all the Work described in the Plans in a good and workmanlike manner and shall furnish, including all applicable taxes and fees, all supplies and materials, all supervision, labor, tools, equipment and transportation necessary to perform the Work. The contract price for such work shall be \$_____ ("Contract Price").

2.0 **Notice to Proceed.** The Work shall not commence until District has given notice to proceed.

3.0 **Completion of Work.** Contractor shall complete the Work on or before _____, which shall be the Completion Date. The Contract Price shall be reduced by \$_____ per day for each regular work day beyond the Completion Date the Work is not completed. The parties agree that damages are difficult to estimate and that this sum per day is a reasonable estimate of

the District's damages in the event Contractor fails to timely complete the Work.

4.0 **Inspection/Acceptance.** The work shall not be accepted until inspected and approved by the District. District shall have the right to inspect the Work at all times. No portion of the Work shall be covered until approved by the District.

5.0 **Performance Bond/Payment.** District shall pay Contractor the Contract Price upon satisfactory completion of the Work, subject to the provisions below.

a. **Retainage.** District may withhold five percent (5%) of the Contract Price as a retainage fund pursuant to RCW 60.28.011. District shall release the retainage less any amounts the District is entitled to withhold to Contractor not later than sixty (60) days after the latest of the following dates: (a) Acceptance of the Work by District; (b) the receipt of all necessary releases from the Departments of Revenue, Labor and Industries and Employment Security, or (c) the settlement of any liens.

b. **Performance Bond.** The District shall require a performance bond unless the Contract Price is less than \$25,000. If the Contract Price is less than \$25,000, then in lieu of a performance bond, District shall withhold fifty percent (50%) of the Contract Price, including the five percent (5%) retainage required in paragraph 5a above in accordance with RCW 39.08.010 for thirty (30) days after the latest of the following dates: (a) Acceptance of the Work by District; (b) the receipt of all necessary releases from the Departments of Revenue, Labor and Industries and Employment Security, or (c) the settlement of any liens.

c. **Prevailing Wages.** The Contractor shall comply with all Washington State prevailing wage laws. The Contractor shall file the necessary intent to pay prevailing wages and affidavit of wages paid forms.

6.0 **Breach by Contractor.** In the event of a breach of this agreement by Contractor, District is authorized, upon notice to Contractor to cause the Work to be completed at Contractor's expense.

7.0 **Rights-of Way/Permits.** The District shall provide all easements, rights-of-way and permits necessary for the Work. Contractor shall comply with all permit requirements and conditions.

8.0 **Warranty.** Contractor warrants that Work shall remain in proper working order and condition for one year after the date of acceptance by District and agrees to make such repairs and

replacements, including all labor and materials, necessary therefore at Contractor's sole expense.

9.0 **Hold Harmless and Indemnity.** Contractor shall defend, indemnify and hold harmless District, its officers, employees and agents from any and every claim and risk and losses, damages, demands, suits, judgements and attorneys' fees, and other expenses of any kind, on account of injury to or death of any and all persons and/or on account of all property damage of any kind, whether tangible or intangible, including loss of use resulting therefrom and including attorney fees, in connection with the work performed under this contract, or caused or occasioned in whole or in part by reason of the presence of Contractor is performing any work called for or in connection with this contract, except only for those losses resulting solely from the negligence of District, its officers, employees and agents.

Should a court of competent jurisdiction determine that this Agreement 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 Contractor and District, its members, officers, employees and agents, Contractor's liability hereunder shall be only to the extent of Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes 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.

10.0 **Compliance.** Contractor shall comply with all federal, State and local laws, regulations and ordinances governing, controlling or limiting in any way the Work or the persons engaged in the Work, including, but not limited to the prevailing wage requirements of State of Washington, RCW Ch. 39.12.

11.0 **Safety.** Contractor shall be solely and completely responsible for working conditions on or near the job site, including safety of all persons and property during performance of work.

12.0 **Insurance.** Contractor shall obtain and continuously carry during the term of this agreement all such insurance as may be required by District. A copy of District's insurance requirements is attached hereto as an Addendum and is incorporated by reference as if set forth in full herein.

13.0 **Attorney Fees.** In the event any party hereto engages counsel to enforce any of the terms hereof, the non-prevailing party in any resulting court proceeding, arbitration or mediation shall pay to the prevailing party a reasonable attorney fee and costs incurred.

14.0 **Waiver and Modification.** This agreement cannot be modified, nor any provision waived, except in a written document signed by both parties.

15.0 **Entire Agreement.** This agreement represents the entire agreement between the parties hereto.

SIGNED as of the date first appearing above.

DISTRICT

CONTRACTOR

NORTHEAST SAMMAMISH SEWER &
WATER DISTRICT

By _____

By _____