

TOWN OF COUPEVILLE
REQUEST for PROPOSALS
SHORELINE MASTER PROGRAM PERIODIC REVIEW
AND AMENDMENTS
DUE JANUARY 8, 2021 – 4:30 pm

General Information

The Town of Coupeville is a small western Washington Town located in Island County. The Town has a Mayor-Council form of government. The Town was incorporated in 1910 with a current population of approximately 1,925. The Town employs approximately 15 people to provide general government, public works, and planning and community development services. The Town also operates a water, storm water and sewer utility.

Purpose

The Town of Coupeville is requesting proposals to conduct a periodic review of the Town of Coupeville Shoreline Master Program (SMP) consistent with the requirements of the Shoreline Management Act (SMA), RCW 90.58, and its implementing rules, WAC 173-26, including the Shoreline Master Program Guidelines (SMP Guidelines).

The purpose of the SMP periodic review is to (a) assure that the master program complies with applicable law and SMP Guidelines in effect at the time of review, and (b) assure consistency of the master program with the Town of Coupeville’s Comprehensive Plan and development regulations. The Town will consider amendments needed to address changed circumstances, new information, or improved data.

Technical Information

The Town will furnish the selected consultant with all reasonably available records and information, including maps, documents, and other pertinent data. Additionally, the Town shall provide staff support and assistance as required and agreed to in advance of the studies.

Written technical questions regarding this RFP/RFQ are preferred and should be directed to Donna Keeler, Planning Director, P.O. Box 725, Coupeville, WA 98239 or via e-mail at planner@townofcoupeville.org. Please allow a minimum response time of 2 business days. Phone calls at (360) 678-4461 ext.103 will be accepted for bona fide questions. Introductions or other conversations by phone will not be accepted.

Funding and Cost

A cost proposal is required as part of the submission. During the final selection process, the Town will discuss available project funds and a firm scope of work that will obtain the Town’s objectives within the funds available.

Schedule: The Town would like all work performed under the contract completed by the consultant/vendor within 120 days of receiving the notice to proceed, with interim reports or draft

results available for earlier consideration. This schedule shall be negotiated and discussed with the finalist.

Consultant/Vendor Qualifications

A statement is to be provided by the respondent who will serve as the primary consultant. The statement shall set forth brief details of the firm's principal activities, the number of personnel in the firm and the firm's location. Please provide a list of (3) three clients for whom similar services have been provided. Include the following in your response:

- Name of governmental agency.
- Contact person's name, position and telephone number.
- Scope of service.
- Status and other comments regarding project.

Experience and expertise in writing and presenting reports for local government officials is desired, including the development of findings, conclusions and recommendations.

Proposal Submission and Award

Consultant/Vendor shall submit one signed original proposal package. All proposals and accompanying documentation will become property of the Town and will not be returned. Proposals should also be submitted by e-mail in Adobe PDF format.

Award will be based upon a review and evaluation by a committee of Town employees. Written submittals and oral presentations, if necessary, may be utilized in selecting the winning proposal. The following evaluation criteria, not listed in order of significance will be used:

- General approach and plans to meet the requirements of the RFP as well as overall ability to successfully complete the project within the stated schedule.
- Qualifications and experience of personnel.
- The Consultant's/Vendor's past performance on projects of similar size and scope.
- Total project cost.

The final selection, if any, will be that proposal which, in the opinion of the Town after review of all submissions by the evaluation committee, best meets the requirements set forth in the RFP and is in the best interest of the Town.

Proposals are due no later than January 8, 2021 at 4:30 p.m. There will be no "pre-bid conference" or formal "bid opening". Qualifications and Proposals received by the deadline will be reviewed by the Town, and selected firms may be invited to meet with selected Town officials to discuss their proposal.

Proposals shall be delivered in the following formats:

Mail or Hand Delivery Original to:

US Mail Address

Town of Coupeville
Attn: Donna Keeler
P.O. Box 725
Coupeville, WA 98239

Hand Delivery

Town of Coupeville
Attn: Donna Keeler
4 NE Seventh Street
Coupeville, WA 98239

Proposals should also be submitted by email in PDF format to planner@townofcoupeville.org, with subject line: Shoreline Master Program Periodic Review Proposal.

Contract

The scope of work described herein will be authorized by Contract. The final contract scope and schedule will be negotiated with the selected Consultant/Vendor. Please note terms and conditions are provided in the sample contract. Vendors should carefully review the Sample Contract to determine the stated requirements and terms.

One original copy of the RFP will require original signature. It must be signed upon submittal.

The Town reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Consultant/Vendor can propose. The Consultant/Vendor shall specifically stipulate that the proposal is predicated upon acceptance of all terms and conditions in the RFP.

Consultant/Vendor should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may provide for the incorporation of the Consultant's proposal. It is understood that the proposal will become a part of the official file on this matter without obligation to the Town. This RFP does not, however, obligate the Town to contract for services specified herein.

Timeline

This is to provide interested firms information about the schedule anticipated by the Town. This is an estimate only, and may change:

- RFP release date: December 15, 2020
- Submittals due: January 8, 2021
- Evaluate proposals: January 8 – January 15, 2021
- Phone or Virtual Interviews (tentative, may or may not be scheduled): January 18 – 20, 2021
- Announce apparent successful Consultant/Vendor: January 22, 2021
- Contract approved by Town Council, February 9, 2021
- Work begins: As soon as February 10, 2021 (or as mutually agreed upon)
- Work completed: June 30, 2021 (or as mutually agreed upon)

Revisions to RFP

The Town reserves the right to modify this RFP and/or cancel or reissue this Request in whole or in part, prior to execution of a contract. In the event it becomes necessary to revise any part of the RFP, it shall be the responsibility of the interested firms to obtain a copy of the addendum. The Town shall make efforts to reach interested firms, but the responsibility shall be on the firms to ensure that they have obtained current material. Addendums will be posted on the Town website.

Acceptance Period

Submittals shall be good for **30** days from due date of RFP. Firms that take exception to this may be considered non-responsive and may be rejected.

Rejection of Submittals

The Town reserves the right at its sole discretion to reject any and all Submittals received without penalty and not to issue a contract as a result of this RFP. The Town also reserves the right at its sole discretion to waive minor administrative irregularities contained in any Submittal.

Responsible Consultant Criteria

The Town shall consider only responsible Consultants/Vendors. Responsible Consultants/Vendors are those that have, in the sole judgment of the Town, the financial ability, experience, resources, skills, capability, reliability and integrity necessary to perform the requirements of the contract. The Town may also consider references, financial stability, and any other information available to the Town. The final selection, if any, will be that proposal which, in the opinion of the Town after review of all submissions, best meets the requirements set forth in the RFP and is in the best interests of the Town.

Obligation to Contract and Costs

This RFP does not obligate the Town to contract for services specified herein. The Town will not be liable for any costs incurred by the Consultant/Vendor in preparation of a Submittal in response to this Request, in conduct of a presentation, or any other activities related to responding to this RFP.

Commitment of Funds

The Mayor and/or his/her designee are the only individuals who may legally commit the Town to Expenditures of funds for a contract resulting from this RFP. **No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.**

Examination of RFP and Contract Documents

The submission of a response shall constitute an acknowledgment, upon which the Town of Coupeville may rely that the Consultant/Vendor thoroughly examined and is familiar with the requirements and contract documents, and reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions dealing with or related to the work and services to be provided. Failure or neglect of a submitter to examine such documents, work site(s), statutes, regulations, ordinances or resolutions, shall in no way relieve the submitter from any obligations with respect to the offer or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of the same. A signed contract furnished to the successful offer results in a binding contract without further action by either party.

Proprietary Information/Public Disclosure

Material submitted in response to this RFP shall become the property of the Town. All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Town and the Consultant/Vendor; thereafter the proposal shall be deemed public records as defined in

RCW 42.17.250 to .340.

Communication with the Town

All communications regarding this RFP are restricted and may only be made through the individual(s) listed below or as directed elsewhere in this RFP. Any oral communications will be considered unofficial and non-binding to the Town. The Town is not bound by information, clarification, or interpretation from other Town officials or employees except as directed in this RFP.

Consultants/Vendors should not contact any Town officials or employees other than the individual(s) listed below or as directed in this RFP. Failure to observe this requirement may be grounds for rejection of the firm's submittal. Interested firms may submit inquiries to the Town prior to the submittal deadline. Following submittal, the Town will not receive additional requests, inquiries or information from any Consultant/Vendor. The only request that the Town will accept shall be information regarding the anticipated award date and/or a list of companies that submitted.

Donna Keeler, Planning Director
360-678-4461 ext. 103
Email: planner@townofcoupeville.org

Submittal Requirements

Consultant/Vendor is specifically notified that failure to comply with any part of the Request for Proposal may result in rejection of the proposal as non-responsive.

All proposals must be on eight and one-half by eleven (8 ½ X 11) inch paper and separated into three major sections. The major sections shall include the **technical specifications (work plan)**, the **management specifications**, and the **cost proposal** section.

Appendix "A" must be signed.

At a minimum, the Town of Coupeville requires that Consultant/Vendor proposals address all criteria in this section and the Scope of Work section. Proposals shall be prepared in three (3) parts as follows:

Technical Specifications:

- The technical proposal must contain all work requirements necessary to accomplish the tasks as defined in the Scope of Work section. It will outline the proposed approach, methodology, work plan, and schedules to accomplish the tasks and to produce the deliverables.
- State completely as possible, what the Town wants, such as; 1) Description of all project requirements; 2) description of plan to accomplish tasks, study, project, etc.; and 3) required involvement of Town staff, if any.
- For each task/requirement listed in the Scope of Work provide whether or not vendor can satisfy the requirement. Provide additional information regarding your solution that you deem appropriate.

Management Specifications: The management proposal must contain the following information:

- General and legal information about the individual or firm, including name, legal status, SSI or
- EIN Number, UBI Number, etc.
- Contact information including address, telephone, email, and fax, etc.
- A Statement of Qualifications of the proposed project team members, including identification of the project manager. Include specific experience in the tasks outlined within the Scope of Work. Consultant must commit that the staff identified in its proposal will be actually assigned to this project.
- In the event the Consultant intends to subcontract any of the proposed work stated in its proposal, the Consultant shall submit the information required above for each proposed subcontractor.
- A list of at least three client references, including names addresses and telephone numbers and briefly describe the type of service required. Consultant must grant the Town permission to contact all references provided.

Cost Proposal:

- Identify all costs Consultant/Vendor will charge for performing the tasks necessary to accomplish the objectives of this RFP. The costs must breakout all expenses expected to be billed to the Town. Provide a cost proposal which includes the estimated number of project work hours by each task/requirement, and the cost of each task/requirement. Include a list of hourly rates of proposed project team members.

Scope of Work

Task 1- Public Participation

Goal: To inform and involve all stakeholders in the SMP periodic review process.

Expected Outcome: Continuous public participation pursuant to WAC 173-26-090.

- A. Prepare and disseminate a public participation plan and schedule to invite and encourage public involvement in the SMP periodic review and amendment process consistent with WAC 173-26-090. The public participation plan should include applicable local requirements such as Planning Commission review, formal public hearings with the Town Council, use of a variety of notification methods as well as applicable local and state notice requirements.
- B. Conduct public participation activities throughout the SMP periodic review process.
- C. Prepare periodic updates of public involvement activities in progress reports.

Task 1 Deliverables:

- (1.) Work with selected Town staff and the Department of Ecology to prepare a public participation plan to be fully implemented prior to June 30, 2021 in coordination with Tasks 2 and 3.
- (2.) Present “Draft” Public Participation Plan to Town Management for staff review. Collect and

document comments and concerns from staff. Following discussion with staff the consultant will make the agreed upon changes to the plan. Provide final public participation plan in a searchable Adobe PDF file.

- (3.) Prepare public notice materials for dissemination by email, online and other methods.
- (4.) Be prepared to attend up to two public meetings and one public hearing with the Planning Commission and Town Council to provide an overview of the process, present findings and recommendations, and to answer questions from the public.
- (5.) Prepare updates of public involvement activities in monthly progress reports.

Task 2- Review Shoreline Master Program for Revisions and Updates and Prepare Draft Amendments

Goal: To review the SMP to determine where changes are necessary and revise the SMP accordingly.

Expected Outcome: A completed Periodic Review Checklist documenting the initial staff review of the SMP, and draft SMP amendments.

- A. Review amendments to Chapter 990.58 RCW and Ecology rules that have occurred since the Coupeville Shoreline Master Program was adopted and determine local amendments needed to maintain compliance. Town staff will provide any draft amendments prepared to date, and a checklist of legislative and rule amendments to assist with the review.
- B. Review and incorporate as deemed appropriate existing draft SMP revisions prepared by Town Staff.
- C. Review changes to the Comprehensive Plan and Development Regulations in the Coupeville Municipal Code to determine if the Shoreline Master Program policies and regulations remain consistent with them. Document the consistency analysis to support proposed changes to the SMP.
- D. Conduct additional analysis deemed necessary to address changing local circumstances, new information or improved data.
- E. Draft revised SMP goals, policies and regulations identified through the review process. Use the checklist to identify where the SMP changes are made to address applicable statutory or regulatory changes.

Task 2 Deliverables:

- (1.) Prepare and submit a Periodic Review Checklist documenting consideration of statutory amendments, and internal consistency review. Include additional revisions provided by Town Staff as determined appropriate.

Task 3. Final Draft SMP with Findings

Goal: Prepare SMP final draft amendment.

Expected outcome: A Shoreline Master Program final draft amendment for review and approval by the Town and the Department of Ecology.

- A. In coordination with Task 1, conduct a local public review process for the proposed Shoreline Master Program. Where amendments are proposed, they shall contain applicable shoreline goals, policies or regulations.
- B. Assemble a complete SMP final draft amendment with findings in preparation for review and approval by the Town Council.

Task 3 Deliverables:

- (1.) Final periodic update of the public review in a progress report.
- (2.) SMP final draft amendment with findings, relevant supporting documentation and complete Periodic Review Checklist in one hard copy and electronic format for Town staff to upload to EAGLE.

Appendix “A” Certifications and Assurances

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. The prices and/or data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
2. The attached proposal is a firm offer for a period of **30** days following receipt, and it may be accepted by the Town without further negotiation at any time within the 30-day period.
3. In preparing this proposal, I/we have not been assisted by any current or former employee of the Town whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this proposal. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
4. I understand that the Town will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals will become the property of the Town, and I/we claim no proprietary right to the ideas, writings, items, or samples.
5. I/we warrant that, in connection with this procurement:
 - (a) The price and/or cost data have been arrived at independently, without consultation, communications, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any competition.
 - (b) Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Consultant/Vendor and will not knowingly be disclosed by him/her prior to opening, in the case of a proposal directly or indirectly to any other competitor.
 - (c) No attempt has been made or will be made by the Consultant/vendor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
6. I further certify that, except as noted below, the Firm or any person in a controlling capacity associated therewith or any position involving the administration of federal funds; is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgment rendered against said person or Firm, by a court of competent jurisdiction in any matter involving fraud or official

misconduct within the past three years.

7. Bidder further certifies that they are not on the Comptroller General's list of ineligible contractors/vendors.

Signature

Date

SAMPLE CONTRACT

THIS SMALL CONTRACT (“Contract”) is made and entered into this _____ day of _____, 21____, by and between the Town of Coupeville, Washington, a Washington State municipal corporation (“Town”), and _____, a Washington _____ (“Contractor”) [LEGAL STATUS OF ENTITY SHOULD BE INSERTED i.e., LLC; Sole Proprietor; LLP; Inc., P.S.; Partnership, Foreign Corporation licensed to do business in Washington State]

WHEREAS, the Town desires to accomplish certain public works entitled _____ (“the Project”); and

WHEREAS, the Town solicited written Bid Proposals for the Project.

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

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

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

1. Scope of Work—the Project.

The Contractor shall perform, carry out and complete the _____ (“Project”) in accordance with this Contract and the incorporated Contract Documents specified in Section 2. The Project shall be completed no later than _____, 20__.

2. Contract Documents.

The following documents are incorporated into the Contract by this reference:

- A. Scope of Work.
- B. Proposal/Bid Submittal (attached).
- C. Addenda (**if any**)

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

3. Commencement of Work.

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

- A. Contract has been signed and fully executed by the parties.
- B. The Contractor has provided the Town with the certificates of insurance required under Section 22.

- C. The Contractor has provided the Town with satisfactory documentation that Contractor is licensed as a contractor in the Washington State.

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

4. **Payment for Project.**

A. **Total Contract Sum for Project.** Excluding approved changes orders, the Town shall pay the Contractor for satisfactory completion of the Project under the Contract a total Contract Sum not to exceed [\$Dollar Amount in figures] (dollar amount in words) in accordance with the bid price in the bid Proposal or proposal price in the Proposal and including all applicable Washington State Sales Tax. The total Contract Sum includes all expenses and costs incurred in planning, and designing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, subcontractors, consultants, and professional services necessary to complete the Project.

B. **Payments shall be for Performance of Project Work.** Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the Town. No payment shall be made for any work rendered by the Contractor except as identified and set forth in this Contract.

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

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

E. **Final Acceptance.** Final Acceptance of the Project occurs when the Town has determined that the Project is one hundred percent (100%) complete.

F. **Payment in the Event of Termination.** In the event this Contract is terminated by the either party, the Contractor shall not be entitled to receive any further amounts due under this Contract until the work specified in the Scope of Work is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under the Contract exceeds the expense incurred by the Town in finishing the work, and all damages sustained by the Town or which may be sustained by the Town or which may be sustained by the reason of such refusal, neglect, failure or discontinuance of Contractor performing the work, such excess shall be paid by the Town to the Contractor. If the Town's expense and damages exceed the unpaid balance, Contractor and his surety shall be jointly and

severally liable therefore to the Town and shall pay such difference to the Town. Such expense and damages shall include all reasonable legal expenses and costs incurred by the Town to protect the rights and interests of the Town under the Contract.

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

5. **Term of Contract.**

The term of this Contract shall commence upon full execution of this Contract by the Town and Contractor and shall terminate upon final payment by the Town to the Contractor, unless sooner terminated by either party under Section 7 or applicable provision of the Contract.

6. **Termination of Contract.**

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

7. **Status of Contractor.**

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

8. **Work Ethic.**

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

9. **Town Ownership of Work Products.**

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

10. Taxes and Assessments.

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

11. Nondiscrimination Provision.

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

12. The Americans with Disabilities Act.

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

13. Compliance with Law.

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

14. Indemnification and Hold Harmless.

- A. The Contractor shall indemnify, defend and hold the Town, its elected officials, agents, officers and/or employees and volunteers harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses of any nature whatsoever (including all costs and attorneys' fees) to or by third parties arising from, resulting from or connected with the work and services performed or to be performed under this Contract by the Contractor and/or its directors, officers, agents, employees, consultants, and/or subcontractors to the fullest extent permitted by law and subject to the limitations provided below.
- B. Nothing contained in this section or Contract shall be construed to create a liability or a right of indemnification by any third party.
- C. The provisions of this section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

15. Insurance.

A. Insurance Term.

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise, as required in this Section, without interruption from or in connection with the performance commencement of the Contractor's work through the term of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation.

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Town's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance.

Contractors required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on at least as broad as Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement There shall be no e exclusion for liability arising from explosion, collapse or underground property damage. The Town shall be named as an additional insured under the Contractor's Commercial General Liability

insurance policy with respect to the work performed for the Town using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad of coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington

D. Minimum Amounts of Insurance.

The Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$1,000,000 general aggregate and a \$1,000,000 products-completed operations aggregate limit.

E. Other Insurance Provisions.

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

F. Acceptability of Insurers.

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

G. Verification of Coverage.

The Contractor shall furnish the Town with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Throughout the term of this Contract, upon request by the Town, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

H. Subcontractors.

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

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein. The Contractor shall ensure that the Town is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as

broad as ISO Additional Insured endorsement CG 20 38 04 13.

I. Notice of Cancellation of Insurance.

The Contractor shall provide the Town and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

J. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Town may, after giving five (5) business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Town on demand, or at the sole discretion of the Town, offset against funds due the Contractor from the Town.

16. Assignment and Subcontractors.

- A. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the Town.
- B. The Contractor shall not subcontract any part of the services to be performed hereunder without first obtaining the consent of the Town and complying with the provisions of this section.
- C. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract documents.
- D. The Contractor shall, before commencing any work, notify the Town in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the Town may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the Town by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the Town shall not constitute a waiver of any right of the Town to reject defective work or work not in conformance with the contract documents. If the Town, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.
- E. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.
- F. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the Town and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the Town to pay or to assure payment of any monies due any subcontractor or assignee.

17. Severability.

- A. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- B. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

18. Integration and Supersession.

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

19. Non-Waiver.

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

20. Survival.

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

21. Contract Representatives and Notices.

This Contract shall be administered for the Town by (NAME) _____, (TITLE) _____, and shall be administered for the Contractor by the Contractor's Contract Representative, _____. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

To Town:

(NAME)
Town of Coupeville
PO Box 725
Coupeville, WA 98239

To Contractor:

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

23. Third Parties.

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

24. Governing Law.

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

25. Venue.

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

26. Attorney Fees

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

27. Authority

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

28. Counterparts.

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

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

Town of Coupeville

By _____
Molly Hughes, Mayor

By _____

Approved as to form:

Attest:

Grant K. Weed, Town Attorney

Kelly Beech, Town Clerk

Acknowledgement of Waiver of Contractor's Industrial Insurance Immunity:

Town

Contractor

ATTACHMENTS: