



CITY OF LYNNWOOD

Meadowdale Park Improvements

INVITATION TO BID # 2767

SMALL WORKS ROSTER SOLICITATION

SECTION 1: Introduction

This Invitation to Bid is being issued in accordance with RCW 35.22.620, which permits the use of a Small Works Roster to solicit bids. Only qualified vendors who have filled out an application to be on the Municipal Research Service Center (MRSC) Small Works Roster and have been accepted may submit bids. **If you did not receive this solicitation directly from the City of Lynnwood (“the City”) you may not be eligible to bid.** A Small Works Roster application is available at www.mrscrosters.org

Notice is hereby given that written bids will be received by the City Purchasing and Contracts Division, for ***Meadowdale Neighborhood Park Improvements*** on the date stated in the Timelines and Schedules Section 2 of this Invitation to Bid.

Project Description: The City seeks a vendor(s) with construction expertise for a three phase project. One phase is to construct a 4,825 square foot parking lot with a storm-water infiltration trench. A second phase is for installation of a 24x28 foot prefabricated picnic shelter, and the third phase is installation of landscape plantings and irrigation. Interested bidders may choose to bid on any or all of the three phases.

Engineer’s Estimate: The engineer’s estimate for the entire project is \$200,000 including Washington State sales tax.

Vendor Optional Site Visit: The City will conduct an optional vendor site visit at Meadowdale Park located at 5700 168th ST SW, Lynnwood, WA 98037 on September 28, 2016. The visit will start promptly at 1:00 p.m. as shown on the Timelines and Schedules, Section 2, of this Invitation to Bid.

Schedules: This project must be completed within sixty (60) working days following the issuance of the written Notice to Proceed. Vendor shall work between 8:00 a.m. and 5:00 p.m. Monday through Friday, unless the City authorizes an exception. Work on weekends or holidays requires special permission by the City.

Prevailing Wages: This project is a Public Work as defined in RCW 39.04.010. The vendor shall comply with all provisions of RCW 39.12. The link to applicable prevailing wage schedule for journey level is <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. The prevailing wage rate for apprentice jobs is <https://fortress.wa.gov/lni/wagelookup/ApprenticeWageLookup.aspx>. The vendor is responsible for filing the appropriate documents with the Department of Labor and Industries. The vendor’s cost of filing Prevailing Wage forms with the State Department of Labor and Industries are not reimbursable by the City.

Insurance: The awarded vendor(s) shall provide evidence of insurance as described herein. This includes Workers' Compensation, Liability, and Property Damage Insurance. The City shall be named as an Additional Insured on each policy.

Bonds: No bid bond is required. Both a Performance and Payment Bond are required of contracts greater than \$35,000 (including Washington State sales tax). If the total cost of this project, including Washington State sales tax, is \$35,000 or less, the Vendor may, in lieu of the bond, elect to have the City retain fifty percent (50%) of the contract amount for a period of forty-five (45) days after the date of final acceptance, or until receipt of all necessary releases from the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. The City reserves the right to waive bond and retainage requirements for contracts under \$35,000 (including tax).

The City reserves the right to reject any or all bids, waive informalities, and make the award in the best interest of the City. Bid results and questions pertaining to this project can be obtained by reaching the Buyer at e-mail dflores@lynnwoodwa.gov

SECTION 2: Timelines and Schedules

Day/Date	Description
Thursday, September 22, 2016	ITB available on Small Works Roster vendors via email notification.
Thursday, September 28, 2016 1:00 p.m.	Vendors' OPTIONAL site visit to be held at 5700 168th St SW, Lynnwood, WA 98037 at 1:00 PM PDT.
Monday, October 3, 2016 2:00 p.m.	All Vendors' written questions are due on the question submittal form shown in Section 8.
Wednesday, October 5, 2016	Answers to all pertinent questions posed by the above date on the required Question Submittal Form, Section 8, will be sent to all known vendors.
Friday, October 7, 2016 By 2:00 p.m.	Submit bid using one of the methods listed in Section 3, Number 3 – Communication Restrictions: email, fax, USPS, courier, or hand-delivered. <u>Respondents assume the risk of the method of dispatch chosen. The City assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual receipt of bids.</u>
Tuesday, October 25, 2016	City will make an award by close of business on date shown.
AFTER AWARD:	
Awarded vendor(s) must return signed contracts and insurance documents within ten (10) business days after receipt of materials from the City. Failure to return these documents may result in rejection of award, and the City could proceed to the next low bidder for award.	
The project must be started within ten (10) days of the issuance of written notice to proceed.	
The project must be completed within the timeframe specified in Section 1 following issuance of notice to proceed.	

SECTION 3: Instructions to Bidders

1. **RESPONSE INSTRUCTION AND SUBMITTAL DEADLINES:** Bids may be submitted by using one of the methods listed in Number 3 – Communication Restrictions.

Submit your bid by the time and date shown in Section 2 of this document. It is the bidder's responsibility to ensure that bids are received by the deadline. Bidders who delay transmitting faxed or emailed bids until close to the deadline, risk that other fax or email traffic may delay the transmission until after the deadline. Bids received after the deadline will not be considered. Vendors may confirm transmissions are successfully received by contacting the Buyer noted in Number 3 below, as documents that are not readable will be rejected by the City.

Vendors should allow normal mail delivery time to ensure timely receipt by the City.

Vendors assume the risk for the method of delivery chosen. Lynnwood assumes no responsibility for delays caused by delivery.

This bid is not a formal public bid opening and reading. Bids are informally read and opened in the Purchasing and Contracts office by purchasing staff. The City reserves the right, under special circumstances, to hold public bid openings.

2. **BONDS AND RETAINAGE:** No bid bond is required. Contracts greater than \$35,000 (including tax) require both a Performance and Payment Bond. If the total cost of this project, including Washington State sales tax, is \$35,000 or less, the vendor may, in lieu of the Payment and Performance Bond, elect to have the City retain fifty percent (50%) of the contract amount for a period of forty-five (45) days after the date of final acceptance, or until receipt of all necessary releases from the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. The City reserves the right to waive bond and retainage requirements for contracts under \$35,000 (including tax).
3. **COMMUNICATION RESTRICTIONS:** All communications regarding this bid must be directed to the Buyer:

Name:	Daniel Garcia-Flores, Buyer
Mailing Address:	PO Box 5008, Lynnwood, WA 98046-5008
Physical Address:	19100 44 th Avenue West, Lynnwood, WA 98036
Phone:	425.670.5149
Fax:	425.771.6144
Email:	dflores@lynnwoodwa.gov

Unless authorized by the Buyer, no other City official or employee can speak for the City regarding this bid. The City is not bound by information, clarification, or interpretations from other City officials or employees. Submitters should not contact the City officials or employees, other than the Buyer. Failure to observe this requirement may be grounds for rejection of the vendor's bid.

4. **INTERPRETATION OF BID AND PURCHASE DOCUMENTS:** The City will not provide binding oral interpretations to bidders as to meaning of bid or contract documents; oral communication is not binding upon the City. Requests for interpretation shall be made to the Buyer until the time and date shown on Section 2. The City will provide addendum for any substantial interpretation or change, which will be sent promptly to parties who received the bid. All addenda shall become part of the bid package.
5. **ADDENDA:** If the City issues addenda to these instructions, bidders must acknowledge receipt of the addenda on the bid form. It is the bidder's responsibility to insure that they have received all addenda, although the City will make reasonable effort to provide addenda to all invited bidders. If receipt of addenda (if any) is not indicated on the bid form, the City may assume the bid considers all addenda OR the Purchasing and Contracts Manager may reject the bid.

6. **STANDARD SPECIFICATIONS AND PLANS:** Work shall be in accordance with Standard Specifications for Road, Bridge and Municipal Construction, 2012 edition as issued by the Washington State Department of Transportation (WSDOT) (hereafter referred to as “Standard Specifications”). Deletion, amendment, alteration, or addition to any subsection or portion of the Standard Specifications shall pertain only to that particular portion of the section, and the balance of the section shall continue to be in force. Vendor shall obtain copies of these publications, at vendor’s own expense.

In many cases herein, this document provides a reference to the Standard Specification as well as a summary for the convenience of the reader. Such summary does not replace or substitute the exact or updated intention of the Standard Specification, and is provided only for the convenience of the reader.

7. **BID SHEET:** All quotations shall be submitted on the bid sheet enclosed herein.
8. **BID PRICE:** The bid shall include everything necessary for the execution and completion of the contract including, but not limited to, furnishing all material, labor, equipment and subcontractors, and other facilities and all management, superintendent’s labor and service, except as may be provided otherwise in the contract documents. The City will not be liable for any errors in any vendor’s bid. Vendors will not be allowed to alter bids after the deadline for the submission of bids.

The City reserves the right to make corrections or amendments due to errors identified in bids by the City or the vendor. This type of correction or amendment will only be allowed for such errors as typing, transposition or any other obvious error. Vendors are liable for all errors or omissions contained in their bids.

When, after the opening and tabulation of bids, a bidder claims error, and requests to be relieved of award, it will be required to promptly present certified work sheets. The Buyer will review the work sheets and if the Buyer is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the bidder may be relieved of its bid.

After opening and reading bids, the City will check them for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between the price per unit and the extended amount of any bid item, the price per unit will control. The total of extensions, corrected where necessary, will be used by the City. The City tax rate shall prevail over any calculated tax provided on the bid form. If tax is calculated improperly, the City shall utilize the City tax rate and calculate accordingly.

9. **EXAMINATION OF BID AND CONTRACT DOCUMENTS, SITE AND SITE CONDITIONS:** Refer to Standard Specifications 1-02.4. In summary, bid submission constitutes acknowledgement upon which the City may rely, that bidder thoroughly examined and is familiar with the bid, specifications and contract documents, familiar with all worksites, reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the work and services to be provided, and received and considered all addenda. Failure or neglect of bidder to examine such documents work site(s), statutes, regulations, ordinances, or resolutions shall in no way relieve the bidder from any obligations with respect to the bidder’s offer or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any contract documents, work site(s), specifications, delivery requirements, statutes, regulations, ordinances or resolutions. A signed contract furnished to the successful vendor results in a binding contract without further action by either party.
10. **NEW OR USED:** All equipment provided shall be of new manufacture, unless otherwise specifically stated or called for in the bid documents.
11. **SIGNATURES:** Bids shall be signed by one of the legally authorized officers of said corporation. If awarded the contract, the contract shall also be so executed. If a bid or contract is signed by an agent, the agent shall provide satisfactory evidence of authority to sign as legal representative of bidder, upon request of the City. An authorized partner of a co-partnership may sign the

contract, subject to the approval of the attorney, who may at his discretion, require each and every member of the co-partnership to sign the contract.

12. **INCURRED COSTS:** The City is not liable in any way for any costs incurred by respondents in replying to this request.
13. **WITHDRAWAL OF BID:** Vendors may withdraw a bid that has been submitted at any time up to the due date and time. To accomplish this, a written request signed by an authorized representative of the vendor must be submitted to the Buyer or Purchasing and Contracts Manager.
14. **ALTERATION OF BID:** A bid already submitted to the City may be changed in writing, if the notice of change is received before the bid submittal deadline. Such changes need to be signed by an individual authorized to submit bids on behalf of the firm.
15. **ERRORS AND OMISSIONS:** The City will not consider a claim of an error in a bid unless the claim is presented in writing within twenty-four (24) hours after the bids are opened. Additionally, bidders claiming error must present supporting evidence, including but not limited to cost breakdown sheets, no later than forty-eight (48) hours after the bids are opened.
16. **BID OPENINGS:** Bids are not publicly opened. Award information will be made available to all bidders as soon as practical following opening at the time and date specified. Results shall be available by emailing the Buyer at dflores@lynnwoodwa.gov
17. **EXPIRATION:** Refer to Standard Spec 1-03.2. Submittal of a bid certifies that bid remains valid until the City completes award and enters a contract with a winning vendor, which normally occurs within forty-five (45) calendar days after bid opening. All bids will become void if the City decides to reject all bids.
18. **RIGHT TO REJECT BIDS:** Refer to Standard Specifications 1-02.13. In summary, the City reserves the right to reject any or all bids, waive technicalities or irregularities, and to accept any bid if such action is believed to be in the best interest of the City. Bids may be rejected by the City, with or without cause, in the best interest of the City and/or in the discretion of the City Purchasing and Contracts Manager. Causes for rejection may include, but are not limited to: (a) if prices are excessively unbalanced in the opinion of the City, (b) if bids are not in ink; (c) if unit prices are not evident; (d) if addenda are not acknowledged.
19. **NON-RESPONSIVE BID:** Any bid that does not comply with these instructions, is not signed, supplements or deviates from the specifications herein, or is incomplete, may be declared non-responsive by the Purchasing and Contracts Manager and not further considered.
20. **RESPONSIBLE BIDDERS:** The City shall consider only responsible vendors. Neither listing on the MRSC Small Works Roster nor the Invitation to Bid guarantees that the City has found the firm responsible. The City Purchasing and Contracts Manager may reject bids from bidders that are not considered responsible, in the opinion of the City. Responsible vendors are those that have, in the sole judgment of the City, the financial ability, experience, resources, skills, capability, reliability and business integrity necessary to perform contract work. The City may also consider references and quality to determine responsibility. Vendors are ineligible to submit a bid if any owner has been convicted within the past ten (10) years of a crime that impugns honesty or integrity, or if the vendor has unsatisfied tax or judgment liens. Vendors shall have the required insurance at time of award, a valid and current Washington State vendor's license, City of Lynnwood business license (to be obtained upon award), appropriate to the work at time of bid, and satisfactory business experience. Other factors, including but not limited to, delivery, materials, quality, and equipment may also be considered by the City to determine responsibility. The City reserves the right to use any information, whether supplied through the bid or otherwise obtained, in determining responsibility. In addition, the City reserves the right to determine responsibility under the guidelines of Standard Specification 1-02.14.
21. **BID AWARD:** If an award is made as a result of this solicitation, it will be made to the lowest, responsible bidder whose bid is determined by the City to be responsive. Phases may be

awarded contracts independently, if deemed to be in the best interest of the City. Refer to Standard Specification 1-03.2. In summary and as applicable to the City, Notice of Award shall be deemed to have been given when the City Council authorizes award. If no such authorization is required, Notice of Award shall be when the purchase order and/or contract, addressed to the successful bidder at the address shown in the bid unless otherwise noted.

22. **PUBLIC INFORMATION:** All bids are public information once bids are tabulated and available for public information.
23. **CONTRACT RETURN:** The successful bidder(s) will receive an award package from the City that includes the contract, request for insurance, and bond documents. The successful bidder must immediately sign and return all requested documents to the City. These must be received by the City within the timeframe as shown on the timeline in Section 2. Each bidder should perform any reviews and consideration of the contract PRIOR to submittal, so that signature of contract can occur immediately following award. Each bidder should have preparations to immediately notify their insurance broker for the required insurance documents. If materials are not returned within the timeframe as shown on the timeline in Section 2, the City retains the right to cancel the award and award to the next lowest responsive and responsible bidder.
24. **FAILURE TO EXECUTE CONTRACT:** Refer to Standard Specification 1-03.5. In summary, should the awarded vendor fail to execute a contract within the terms and conditions herein, vendor may be removed from the eligible bidder's list including the MRSC Small Works Roster.
25. **NON-COLLUSION:** Refer to Standard Specification 1-02.8 (1). In summary, submittal and signature of a bid swears that the bid is genuine and not a sham or collusive, and not made in the interest of any person not named, and that the vendor has not induced or solicited others to submit a sham offer, or to refrain from proposing.
26. **NON-SEGREGATED FACILITIES:** Vendor agrees that the company does not maintain or provide for employees any segregated facilities, and that the vendor does not allow employees to perform services at any such facility. Vendors agree that a breach of this shall constitute a contract violation.
27. **BUSINESS LICENSE:** Vendors awarded a City contract are responsible for compliance with LMC 5.06.01B and 5.06.04B regarding possession of the City business license. The cost of obtaining the business license is at the expense of the vendor and shall not be reimbursed by the City. Vendors may call 425-670-5159 for more information.
28. **PROTESTS:** The City shall respond to all formal, written protests made against the City for bid and contract awards. This applies to all informal Small Works bids, unless an alternative protest procedure has been specified in the bid document.

Any actual or prospective bidder, including subcontractors and suppliers showing a substantial economic interest in the contract, who is aggrieved in connection with the City solicitation or award of a contract may protest to the City in accordance with procedures herein.

PROCEDURE: The protesting party must submit a formal written statement to the City Purchasing and Contracts Manager (unless directed to another individual by the bid solicitation document) signed by the protesting party and submitted in a timely manner. The written protest statement must state the (1) name, address and phone number of the aggrieved person; (2) the bid number and title for which the protest is submitted; (3) the grounds for protest with specific and complete statement of the action(s) being protested; (4) a specific relief or ruling requested.

In no event shall a protest be considered if all bids are rejected, or after the contract in dispute has been executed by the City.

In no case shall a bidder or protestor contact the Mayor or other elected City officials regarding the protest or a possible protest action, or the protest will be considered void. This criterion is to insure the ability of the City to respond appropriately and independently to the protest action without undue influence to the protest review.

PRIOR TO BID OPENING OR DUE DATE: Parties with a potential economic interest in the outcome of a bid may submit a formal written protest to any condition known or that should reasonably have been known prior to bid opening. This includes conditions and information stated or provided in the solicitation documents, conditions occurring as a result of distribution of the solicitation documents, conditions occurring during the solicitation process, conditions occurring during any pre-bid meetings or conferences, and related matters prior to bid opening.

The City Purchasing and Contracts Manager (or other City representative if so named in the solicitation document) must receive such written protest at least five (5) full business days prior to the bid submittal deadline. After that time, interested parties shall be considered to have waived their right to protest such issues.

AWARD: Except for Public Work contracts solicited by formal sealed bid, which require a formal award by the City of Lynnwood City Council, the City may award and sign a contract at any time according to normal City procedures. Once the City has signed a contract, the City shall reject and no longer accept a protest related to that bid and contract award.

AFTER BID OPENING AND PRIOR TO AWARD: Within two (2) full business days (the equivalent of sixteen [16] business hours) after the advertised date and time of bid opening, as amended (Saturday, Sunday and legal City holidays excluded), any party planning to protest must file written notice of such intention with the City Purchasing and Contracts Manager (or other City official if so named in the bid document). If no notice is received by the City Purchasing and Contracts Manager within the two (2) business days, all eligible protesters will be considered to have waived their right to protest. Notice of intention must stipulate (1) name, and address and phone number of the aggrieved person; (2) the bid number and title for under which the protest is submitted; (3) the intended grounds for protest.

The complete protest, prepared in accordance with the criteria set forth in this procedure, must be received by the party to whom the original Notice of Protest was submitted within two (2) business days after the date and time of receipt of the Notice of Protest.

After the two (2) business days have passed from bid opening date/time, the City will proceed as follows.

If a notice of intent to protest was filed with the City during the two (2) days following bid opening, the City may, in the City's determination:

- Suspend the award decision to allow consideration of the protest before award is made; or
- Declare intent to award and wait a minimum of sixteen (16) business hours (two [2] business days as defined above) before entering into a contract. Written notice of intent to execute a contract shall be met by either one of the following methods:
 1. Public posting by the City with a named intent to award indicated on the posted tabulation, made public or accessible to the public by telephone and/or posting on the City internet location designated for bid results; or
 2. A City Council memorandum request to authorize award to the apparent successful bidder. The first memorandum request that is submitted to Council for work session consideration shall be considered notice of intention to award.

After bid opening, only bidders that submitted a bid, subcontractors, or others that can show substantial economic interest in the bid award and who are aggrieved are eligible to protest. After bid opening, protests are limited to issues related to bid opening, evaluation of bids, and intention to award decisions, and are further limited to those items that were not known or could not have been reasonably known prior to bid opening. Such issues that were known or should reasonably have been known must have been protested prior to bid opening, and are no longer eligible as an issue of protest. Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator;
- Errors in computing the score or bid price upon which award decisions are based;
- Non-compliance with procedures described in the solicitation for the opening and award itself.

CITY RESPONSE TO A WRITTEN PROTEST: The City Purchasing and Contracts Manager will receive the protest, unless otherwise stipulated in the bid document. Available facts will be considered and a decision will be issued by the City. The protesting party shall be notified of the City decision.

The City may give notice of the protest and its basis to other persons, including bidders, involved in or affected by the protest; such other persons may be given an opportunity to submit their views and relevant information.

The City will issue a written decision, stating the reasons for the decision and informing the aggrieved person of his/her right to appeal to the Public Works Director or Finance Director as appropriate to the jurisdiction of the bid and/or as named in the bid documents. The decision shall be mailed, electronically transmitted or otherwise promptly furnished to the aggrieved person and other interested parties. The decision will be considered final and conclusive unless appealed within two (2) business days (sixteen [16] business hours) of the written decision.

APPEAL: Any appeal must be made within two (2) business days of the determination being delivered by the City to the aggrieved party. An appeal must be in writing and submitted to the City Purchasing and Contracts Manager (unless the bid solicitation document or the determination identified another City official to receive the aggrieved party statement). The written statement of appeal must provide a substantial basis for an appeal, based on the information submitted as part of the original protest. New information or basis of protest will not be considered during the appeal process. This shall be the final appeal provided to the protestor. The appeal shall be considered by the Director for the bid jurisdiction (Public Works Director, Finance Director or other), who shall consider all facts and issues, and shall issue a final decision on behalf of the City.

If the aggrieved party appeals the decision, then the subsequent determination shall be final and conclusive.

DETERMINATION: The determination by the City shall either:

- Find the protest lacking in merit and uphold the City's action; or
- Find only technical or harmless errors in the City acquisition process and determine the City to be in substantial compliance and therefore reject the protest; or
- Find merit in the protest and pursue correction including correcting the errors and reevaluating the bids, and/or reissuing the solicitation to begin a new process; or
- Make other findings and determine other courses of action as appropriate.

SECTION 4: Scope of Work / Specifications

4(A) Background

Meadowdale Park was constructed in 2002 and is one of the City's several neighborhood parks at just over 6 acres; it consists of wooded trails, a large play area featuring a zip line and restrooms. With increased use of the park there is a need for additional parking, access improvements and a picnic shelter. The vacant lot to the east is the location of the new parking lot and will connect to the existing parking. The meadow east of the play area is the location of the future picnic shelter. Please refer to Attachment A for a park map.

4(B) Scope of Work

4(B)1. Phase 1 Scope of Work

The City is seeking bids for the general grading and construction of an asphalt parking and lot infiltration trench. The scope of work includes, but is not limited to, clearing, grading, and drainage improvements as follows:

- Installation of approximately 4825 square feet of asphalt parking lot located in a vacant lot to the east of the existing parking area.
- Clearing and grading
- Drainage improvements to include an infiltration trench along the Southern portion of the parking lot.

Please refer to Attachment B for further specifications and drawing details. Meadowdale Park is a public park. Job site access restrictions and public safety will be the responsibility of the Vendor and their sub-contractors.

4(B)2. Phase 2 Scope of Work

In addition to the base bid, the City is seeking an additional alternate bid for the installation of landscaping and irrigation system.

- Installation of landscape plants, trees and ornamental rockscape.
- Installation of 2 additional irrigation zones to the new landscape area and existing trees.
- Installation of a rock pathway connecting the parking lot and play area pavilion

4(B)3. Phase 3 Scope of Work

In addition to the base bid, the City is seeking additional alternate bids for the installation of a pre manufactured picnic shelter.

- Clearing and grading for the concrete slab foundation
- Installation of a concrete base and assembly of the 24x28 foot premanufactured shelter.

Refer to Picnic Shelter certified plan set

4(C) Permits

Clearing and grading
Building permit

The City will provide the contractor permits required for this project. A copy of all permits shall be provided to the City project manager, Eric Peterson, when obtained and the original of each permit when signed off by the inspector if required.

4(D) Warranty

A minimum one (1) year warranty on materials and workmanship is required.

SECTION 5: Bid Sheet

The two (2) pages below comprise the formal bid offer. Complete BOTH pages and Section 6 and return to the City Purchasing and Contracts Division via fax, mail or hand delivery to the Buyer listed in Section 3, Number 3 – Communication Restrictions.

Do not use any other form to submit your offer. Submit no later than the day and time shown in Section 2.

**BID SHEET
Meadowdale Park Improvements
BID # 2767**

Having carefully examined all documents enclosed herein, the undersigned proposes to perform all work in strict compliance with all documents, for the amount set forth below.

- Bid sheet must be signed.
- Use ink and print legibly.
- Unit prices, when relevant, are mandatory and shall control.
- Initial and date any changes, erasures or cross-outs.

PHASE #1 PRICING

Item	Description	Qty.	Lump Sum Price
#1	Base Bid – Meadowdale Park Improvements as listed in Section 4(B)1 and Attachment B.	1	\$
9.8% Washington State Sales Tax			\$
TOTAL			\$

PHASE #2 PRICING

Item	Description	Qty.	Lump Sum Price
#1	Phase 2 alternative bid Landscaping and irrigation as listed in Section	1	\$
9.8% Washington State Sales Tax			\$
TOTAL			\$

PHASE # 3 PRICING

Item	Description	Qty.	Lump Sum Price
#1	Phase 3 alternative bid picnic shelter foundation and installation as listed in Section	1	\$
9.8% Washington State Sales Tax			\$
TOTAL			\$

Company Name: _____

Mailing Address: _____

Office Phone: _____ Fax Number: _____

Email Address: _____

Contact Name: _____ Title: _____

Signature: _____ Date submitted: _____

Payment Terms: _____ +

SECTION 6: Response Cover Sheet

**CITY OF LYNNWOOD
Meadowdale Park Improvements
ITB # 2767**

	Yes	No
Has your company operated at least one (1) year without interruption?	<input type="checkbox"/>	<input type="checkbox"/>
Has an owner of your company been convicted of a crime within the past 10 years?	<input type="checkbox"/>	<input type="checkbox"/>
Does any employee or official of the City have any financial or other interest in your firm?	<input type="checkbox"/>	<input type="checkbox"/>
If selected, do you agree to execute a contract essentially the same in form as the sample contract attached in the Invitation to Bid?	<input type="checkbox"/>	<input type="checkbox"/>
Does your company maintain insurance in amounts specified by City contract? (if no, this does not necessarily eliminate vendor from submittal):	<input type="checkbox"/>	<input type="checkbox"/>
If no, describe differences: _____		
Are there any claims pending against this insurance policy?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, describe _____		
Does your company maintain Professional Liability Insurance?	<input type="checkbox"/>	<input type="checkbox"/>
Has your company been in bankruptcy, reorganization or receivership in the last five years?	<input type="checkbox"/>	<input type="checkbox"/>
Has your company been disqualified by any public agency from participation in public contracts?	<input type="checkbox"/>	<input type="checkbox"/>
Is your company licensed to do business in the State of Washington?	<input type="checkbox"/>	<input type="checkbox"/>
Are you on Comptroller General's list of ineligible vendors or list of parties excluded from federal procurement or non-procurement programs?	<input type="checkbox"/>	<input type="checkbox"/>

The undersigned acknowledges that addenda _____ through _____ have been taken into account as part of this requirement.

*The undersigned hereby accepts the terms and conditions as set forth herein. **This page must be signed and dated by the vendor's representative who is legally authorized to contractually bind the vendor.***

FULL LEGAL NAME OF COMPANY _____

TYPE OF BUSINESS Corporation Partnership (general) Partnership (limited)
 Sole Proprietorship Limited Liability Company

FEDERAL EMPLOYEE ID NUMBER (FEI) _____

ADDRESS _____

CITY/STATE/ZIP _____

EMAIL ADDRESS _____

PHONE _____ FAX _____

NAME (Please Print) _____ TITLE _____

SIGNED _____ DATE _____

Business License: Vendor may be required to obtain a City of Lynnwood business license before performing any Work. The cost of obtaining the business license is at the expense of the Vendor and shall not be reimbursed by the City. Please access the business license requirements and information at "Get Your Business License" which can be obtained on the City's website at <http://www.lynnwoodwa.gov/>

SECTION 7: Retainage Option

This section intentionally left blank.

SECTION 8: Question Submittal Form

Questions regarding this ITB must be submitted in writing, in electronic form (MS Word), on the form provided in this Section 8 (below) and returned via email to the ITB Contact listed in Section 3(3), and only during the allotted timeframe detailed in the timeline, Section 2. Only ONE question per form is permitted; duplication of the form is acceptable in the event you have additional questions.

Answers to all questions from all Vendors will returned to all ITB participants without identifying the Vendor making the inquiry.

Meadowdale Park Improvements	ITB Questions Form
ITB# 2767	

ITB Section and Paragraph:		ITB Page Number:	
Submitted By:		Date Submitted:	
Email:		Phone:	
Company Name:			

All Vendors are required to direct their questions to the Buyer listed in Section 3(3). Only one question per form is permitted.

GENERAL PROVISIONS
Small Works

These general provisions are hereby a part of the conditions agreed to by the vendor upon Bid.

1. **Applicable Law and Forum:** Except as hereinafter specifically provided, this contract shall be governed by and construed according to the laws of the State of Washington. Any suit arising herefrom shall be brought in Snohomish County Superior Court, which forum shall have sole and exclusive jurisdiction and venue. Also see Article 1-01.3 of Standard Specifications for contract definitions.
2. **Acceptance of Award:** If awarded vendor begins work, the vendor is deemed to have agreed to all addenda, bid, special provisions, contract plans, general provisions, amendments to the Standard Specifications, Standard Specifications and standard plans, contract, and all other related documents. If such work is accepted by the awarded vendor before the City receiving a signed contract, both parties shall regard the contract and documents to be in force.
3. **Contract Documents:** Refer to Standard Specification 1-04.2. In summary, the addenda, bid, Special Provisions, contract plans, general provisions, amendments to the standard specifications, standard specifications, standard plans shall be a part of and constitute the contract entered into by the City and successful bidder. In the event there is discrepancy between any of the foregoing contract documents, the above order of documents governs so that the former prevails over the latter.
4. **Notice to Proceed:** Vendor shall not commence work until Notice to Proceed has been given by the City. This Notice to Proceed must be issued by the Public Works Director or designee, unless named differently in the Special Provisions. A notice to proceed will be given after the contract has been executed by the City and the vendor, and where applicable, by any State or Federal agencies responsible for funding any portion of the project. The time allowed for substantial completion of the work shall begin as of the date specified in the Notice to Proceed, or if no date is specified, ten (10) calendar days after the date of issuance of the notice to proceed or the date work commences, whichever is earlier.
5. **Change Orders:** Refer to Standard Specification 1-04.4. In summary, the City reserves the right to add or delete work, items, agencies or locations from this contract, subject to appropriate adjustments to the contract price. Added items, agencies or locations will be related to those on contract, and additions or deletions will be by mutual agreement, with prices consistent with the original bid price margins, and evidenced by a written contract change notice from the City Public Works Director or his designee. The execution of a change order shall constitute a waiver of claims by the vendor arising out of the work to be performed or deleted pursuant to the change order, except as specifically described in the change order. General reservations of rights will be deemed waived and void.
6. **Vendor Clean-Up:** Refer to Standard Specification 1-04.11. In summary, all debris resulting from vendor's work, delivery or installation of equipment shall be disposed of entirely by the vendor in an efficient and expeditious manner as required and directed by the Public Works Director or his designee.
7. **Inspection and Acceptance:** Refer to Standard Specification 1-05.1. In summary, work performed under this contract will be monitored and inspected by the Public Works Director or his designee, and accepted by same.
8. **Warranties:** Refer to Standard Specification 1-05.10. In summary, vendor warrants that items furnished conform to its description and any applicable specifications, shall be of good quality and fit for the known purpose for which sold. This warranty is in addition to any standard warranty or service guarantee to the City. Bidder shall submit in writing, and detail the warrantee covering said item(s) or as soon thereafter as immediately required by the City.
9. **Guarantee:** Refer to Standard Specification 1-05.10. In summary, vendor hereby guarantees that all of the work, materials or equipment furnished under this contract will fully meet all requirements for quality of workmanship, materials, strength and any and all other requirements of the specifications.

10. **Vendor Responsible for Work:** Vendor shall be responsible for all work until its acceptance by the City and vendor will not be released from responsibility for any part of the work until one (1) year after it has been accepted.
11. **Approvals:** Refer to Standard Specification 1-06.1. In summary, materials purchased are subject to the City approval and if rejected are held subject to the vendor's risk and expenses incurred for its return as approved by the Public Works Director or designee.
12. **OSHA/WISHA:** Vendor agrees to comply with the conditions of the Federal Occupational Safety and Health Act of 1970, the Washington Industrial Safety and Health Act of 1970, and standards and regulations issued thereunder, and certifies that all items furnished and purchased will conform to and comply with said standards and regulations. Vendor further agrees to indemnify and hold harmless the City from damages assessed against the City because of vendor's failure to comply with the acts and the standards issued thereunder and for the failure of the items furnished under this order to so comply.
13. **Compliance With Laws:** Refer to Standard Specification 1-07.1. In summary, vendor shall comply with all applicable federal, state, tribal and local laws, rules, and regulations affecting its performance and hold the purchaser harmless against any claims arising from the violation thereof. No extension of time or additional payment will be made for loss of time or disruption of work caused by any actions against the vendor for any of the above reasons.
14. **Taxes:** Refer to Standard Specification 1-07.2. In summary, the vendor shall include Washington State Sales and Local Tax where applicable, as a separate item on the invoice. Exclude Federal Excise Tax and supply exemption certificate when necessary.
15. **Licenses and Permits:** Refer to Standard Specification 1-07.6. In summary, vendor shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work. The City may charge vendors for any of the City permits that are issued, and such costs, if any, shall be borne by the vendor.
16. **Safety Measures:** In addition to the safety provisions outlined in Standard Specification 1-07.1, all work under this Contract shall be performed in a safe manner. Vendor and all subcontractors shall observe all rules and regulations of the Washington State Department of Labor and Industries, rules and regulations of OSHA, WISHA, or any other jurisdiction, and all other applicable safety standards. Vendor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Vendor shall exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property. All exposed moving parts of equipment capable of inflicting injury by accidental contact shall be protected with sturdy removable guards in accordance with applicable safety regulations.

17. **Prevailing Wages:** Refer to Standard Specification 1-07.9. In summary, prevailing wages shall apply to all work, in compliance with State RCW and Standard Specifications. It is the responsibility of the vendor to file all required forms with the State of Washington, Department of Labor and Industries, in a timely manner.
18. **Worker's Benefits:** Refer to Standard Specification 1-07.10. In summary, vendor shall make all payments required for unemployment compensation under Title 50 RCW and for industrial insurance and medical aid required under Title 51 RCW. If any payment required by Title 50 or Title 51 is not made when due, the City may retain such payments from any money due vendor and pay the same into the appropriate fund.

After final completion of all work on the project, vendor shall submit a "Request for Release" to the Washington State Department of Labor and Industries on the form they provide. The "Request for Release" form of the Department of Labor and Industries is also for obtaining a release with respect to the payments of industrial insurance and medical aid premiums.

19. **Equal Opportunity and Nondiscrimination:** Refer to Standard Specification 1-07.11. In summary, "The Equal Opportunity Clause" in Section 301 of Executive Order 10925 as amended, and the implementing Rules and Regulations, are herein incorporated by reference. Also see Article 1-07.11 of Standard Specifications. In all hiring or employment made possible or resulting

from this contract, there shall be no unlawful discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this contract on the grounds of sex, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or in the presence of any sensory, mental or physical handicap.

20. **Personal Liability:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the City be in any way personally liable or responsible for any covenant or agreement herein contained whether express or implied, nor for any statement of representation made herein or in any connection with this contract.
21. **Warranty of Title:** The vendor shall warrant good title to all materials, supplies, and equipment purchased for, or incorporated in the work. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor, to recover under any bond given by the vendor for their protection, or any rights under any law permitting such persons to look to funds due the vendor in the hands of the City.
22. **Guarantee of the Work:** The vendor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness. The guarantee period shall be suspended from the time a significant defect is first documented by the City until the work or, equipment is repaired or replaced by the vendor and accepted by the City. In the event that fewer than ninety (90) days remain in the guarantee period after acceptance of such repair or replacement (after deducting the period of suspension above), the guarantee period shall be extended to allow for at least ninety (90) days' guarantee of the work from the date of acceptance of such repair or replacement.
23. **Insurance:** The vendor shall not start work under this contract until vendor has furnished proof of insurance as required hereunder and such insurance has been approved by the City; nor shall vendor allow any subcontractor to commence work on its subcontract until the same insurance requirements have been complied with by such subcontractor. Approval of insurance by the City shall not relieve or decrease the liability of vendor for any damages arising from vendor's performance of the work.

Vendor shall procure and maintain during the life of this contract, Commercial General Liability, and Automobile Liability Insurance, as detailed herein, to protect the City and vendor from and against all claims, damages, losses and expenses arising out of or resulting from the performance of work detailed herein, with insurance companies or through sources approved by the State Insurance Commissioner pursuant to RCW Chapter 48. Coverage provided shall protect against claims for personal injuries, including accidental death, as well as claims for property damages which may arise from any act or omission of the vendor or any subcontractor or by anyone directly or indirectly involved or employed by either of them.

Vendor insurance policies shall include the City as Additional Named Insured, Form CG 2010 11 85, on a Primary Basis and others if required by contract documents. All insurance policies shall be endorsed to provide that no policy shall be cancelled, changed or reduced in coverage, until after thirty (30) days prior written notice has been delivered to the City through certified mail. Exceptions to form must be approved by the Public Works Director or designee and/or the Purchasing and Contracts Manager or designee.

A Certificate of Insurance including the Additional Named Insured Endorsement on Form CG 2010 11 85 shall be filed with the City after award, but prior to execution of the contract, for a primary policy of commercial general liability insurance and automobile liability insurance meeting the requirements herein.

The Certificate of Insurance (ACCORD Form 25-S) cancellation clause shall be revised to read as indicated below. Exceptions to this requirement must be approved by the Public Works Director or designee and/or the Purchasing and Contracts Manager or designee.

Should any of the above described policies be cancelled, changed or reduced in coverage, before the expiration date, the issue company will mail thirty (30) day written notice to the certificate holder named at the left using certified mail.

Failure of the vendor to fully comply with the requirements set forth herein regarding insurance shall be considered a material breach of contract and shall be cause of immediate termination of the contract and of any and all obligations regarding the same.

Approval of the insurance, by the City, shall not relieve or decrease the liability of the vendor for any damages arising from vendor's performance of the work.

Insurance shall provide, at a minimum, the types of insurance coverage, limits and endorsements as set forth below and shall be included in all applicable policies and on the Certificate of Insurance. The insurance coverage listed below shall protect the vendor and the City from claims for damages of bodily injury, including death resulting therefrom, as well as claims for property damage, which may arise from operations under this contract, whether such operation be by itself or by any subcontractor or by anyone directly employed by either of them, it being understood that it is the vendor's obligation to enforce the requirements of this section in respect to any subcontractor employed for this project:

Commercial General Bodily injury and Property Damage Insurance shall be written with limits of liability of no less than \$1,000,000 combined single limits, per occurrence and \$2,000,000 in aggregate, and shall include:

- Premises & Operations;
- Owners and Vendors Protective;
- Products Liability, including completed Operations Coverage;
- Contractual Liability;
- Broad Form Property Damage;
- Commercial Form (to include Extended Bodily Injury);
- Employees as Additional Insured;
- Explosion, Collapse & Underground Hazard;
- Independent Vendors;
- Personal Injury;
- Stop Gap;
- Cross Liability Clause.

Automobile Bodily Injury shall be written with limits of liability as required by the Supplementary General Conditions, but shall in no case be for limits less than \$1,000,000 Combined Single Limit. Coverage shall include:

- All owned automobiles;
- Non-Owned automobiles;
- Hired Automobiles;
- Any automobiles.

Bodily Injury Liability Insurance shall be written on an occurrence basis for bodily injury, sickness or disease, including death resulting therefrom.

Property Damage Liability Insurance shall be written on an occurrence basis for damage to or destruction of property, including the loss of use thereof, and shall not exclude Injury to, or destruction of, wires, conduits, pipes, mains, sewers or similar property or any apparatus in connection therewith, below the surface of the ground, if such injury or destruction is cause by and occurs during, the use of mechanical equipment for the purpose of excavating or drilling, or injury to or destruction of property at any time resulting therefrom.

Builder's Risk Liability Insurance is required for all contracts that require new construction, for the full value of the structure, and with no more than \$10,000 deductible.

Nothing contained in these insurance requirements is to be construed as limiting the extent of the vendor's responsibility for payment of damages resulting from operations under this contract.

The coverages provided by this policy are primary to any insurance maintained by the City.

Inclusion of more than one Insured under this policy shall not affect the rights of any insured as respects to any claims, suit or judgment made or brought by or for any other Insured or by or for any employee of any other Insured. This policy shall protect each Insured in the same manner as though a separate policy had been issued to each, except that nothing herein shall operate to increase the company's liability beyond the amount or amounts for which the contract would have been liable had only one Insured been named.

There shall be included in the liability insurance contractual coverage sufficiently broad to insure the provisions of that Section herein entitled "Hold Harmless Clause."

In the event the vendor is required to make corrections on the premises after the project has been inspected and accepted, s/he shall obtain at his/her own expenses, and before commencement of any corrective work, full insurance coverage as specified herein.

24. **Gifts and Gratuities:** Refer to standard Specification 1-07.19. In summary, businesses must not offer, nor the City employees accept, gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with the City business practices. It is also unlawful for anyone to offer another, to influence or cause them to refrain from submitting a bid. Vendors and the City employees must strictly adhere to the statutes and ordinances for ethics in contracting and purchasing, including the City Ethics Code, RCW 42.23 (Code of Ethics for Municipal Officers) and RCW 42.52 (Ethics in Public Service). This is applicable to any business practice, whether a contract condition, bid practice, or at any activity related to City business.
25. **Dust and/or Mud Control:** The vendor shall furnish all labor, equipment, and means required and shall carry out protective measures wherever and so often as necessary to prevent operations from producing dust and/or mud in amounts damaging to property, the environment, or causing nuisance. The vendor shall be responsible for any damage resulting from dust or mud originating from his operations. The dust and mud abatement measures shall be continued until all required resurfacing is complete or until the vendor has completed arrangements with the proper authorities whereby he is relieved of further responsibility. All cost to control dust and/or mud shall be considered incidental to construction, no further compensation shall be made.
26. **Assignment:** Refer to Standard Specification 1-08.2. In summary, neither party may assign any portion of the contract work without the prior consent of the other party.
27. **Construction Time Limit:** All of the work and materials contemplated to be included in this project shall be completed within the contract time as stated by the City on the bid form. Vendor agrees to pursue completion of the project. There shall be no delays due to inclement weather, unless the City agrees with vendor that weather is abnormal to the season, can be reasonably considered disruptive to the work, and such weather could not be normally expected to occur for this region. In the event that vendor shall fail to proceed with the contemplated work for more than seven (7) working days, vendor shall be deemed to have abandoned the project, and the City may elect to terminate the contract and thereafter proceed to complete the contract through its own forces or through an independent third party. In such event, the vendor herein shall be responsible for all expenses reasonably incurred by the City in completing the work. The vendor will also be responsible for all legal, engineering or other costs caused by the vendor's abandonment, failure or refusal to complete the project within the time provided.
28. **Delays and Extensions of Time:** The vendor herewith specifically waives claims for damages for any hindrance or delay, excepting unreasonable delays caused by the City. In lieu thereof, the vendor will be granted equitable extensions of time by the City under the following circumstances:

A delay caused by any suit or other legal action against the City will entitle the vendor to an equivalent extension of time, unless the period of such delay exceeds ninety (90) calendar days. When such period is exceeded, the City will, upon request of the vendor, in writing, either negotiate a termination of the contract or grant a further extension of time, whichever may at the time be in the best interests of the City.

There shall be no delays or extensions due to inclement weather, unless the City agrees with a claim from vendor that weather is abnormal to the season, can be reasonably proven disruptive to the work, and could not be normally expected to occur for this region.

If the volume of the specified work, measured in dollars, is increased over the total value shown in the vendor's proposal, at the time the award of the contract is made, the vendor will, if the City agrees, be granted an extension of time proportionately equal to the impact on the contract time caused by the increase in the total value.

Should other unforeseen conditions occur beyond the reasonable control of vendor, or should performance of work under a change order make the work more complex or difficult than originally specified and shown on the plans, and such work, in the vendor's opinion, requires more time to execute than allowed by the contract, the vendor shall notify the City in writing prior to the performance of such work, setting forth in detail its estimate of the added time required for such work. The City will, if such estimate is approved, allow an equitable extension of time. Also see Section 5, Change Orders, of these General Provisions.

29. **Breach:** In addition to the events defining a breach as outlined under Standard Specification 1-07.10 (1), a breach of a term or condition of the contract shall mean any one or more of the following: (1) vendor fails to perform the services by the date required or by a later date as may be agreed to in a written amendment to the contract; (2) vendor breaches any warranty or fails to perform or comply with any term or agreement in the contract; (3) vendor makes any general assignment for the benefit of creditors; (4) in the City's sole opinion, vendor becomes insolvent or in an unsound financial condition so as to endanger performance; (5) vendor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency, reorganization, or relief from creditors and/or debtors; (6) any receiver, trustee, or similar official is appointed for vendor or any of the vendor's property; (7) vendor is determined to be in violation of federal, state or local laws or regulations and that such determination, in the City's sole opinion, renders the vendor unable to perform any aspect of the contract.
30. **Default:** In addition to the events defining a default as outlined under Standard Specification 1-07.10 (1), a vendor may be declared in default for failing to perform a contractual requirement or for a material breach of any term or condition.
31. **Termination for Breach and/or Default:** Refer to Standard Specification 1-08.10 (1). In addition, the City shall be entitled by written notice, to cancel and/or terminate this contract in its entirety or in part, for breach and/or for default of any of the terms and to have all other rights against the vendor by reason of the vendor's breach, as provided by law.
32. **Opportunity to Cure Default:** Refer to Standard Specification 1-08.10 (1). In summary, in the event that vendor fails to perform a contractual requirement or materially breaches any term or condition, the City may issue a written or oral notice of default and provide a period of time in which vendor shall have the opportunity to cure. Time allowed for cure shall not diminish or eliminate vendor's liability for liquidated or other damages. The City is not required to allow the vendor to cure defects if the opportunity for cure is not feasible as determined solely by the City. The City may terminate the contract for nonperformance, breach or default without allowing the opportunity to cure by the vendor.
33. **Remedies for Cure of Default:** Refer to Standard Specification 1-08.10 (1). In summary, if the nonperformance, breach or default remains after vendor has been provided the opportunity to cure, the City may do one or more of the following: (1) exercise any remedy provided by law; (2) terminate this contract and any related contracts or portions thereof; (3) impose liquidated damages; (4) suspend vendor from receiving future invitations to bid. The City may procure the articles or services from other sources and hold the bidder responsible for any excess and expense occasioned thereby, including delay in time, whether foreseeable or unforeseeable.
34. **Termination for Convenience:** Refer to Standard Specification 1-08.10 (2). In summary, the City may terminate this contract, in whole or in part, at any time by written notice to the vendor.

35. **Payment and Performance Bond and Retainage Requirement:**

Projects \$35,000 or less (including tax): If the total cost of this project, including Washington State sales tax, is \$35,000 or less, the vendor may, in lieu of the bond, elect to have the city retain fifty percent (50%) of the contract amount for a period of forty-five (45) days after the date of final acceptance, or until receipt of all necessary releases from the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

The City reserves the right to waive the Payment and Performance Bond and Retainage for contracts under \$35,000 (including tax) but the City has a right of recovery against the vendor for any payments it makes on behalf of the vendor.

Projects greater than \$35,000 (including tax): Vendor shall obtain a Payment and Performance Bond in accordance with this contract and all attachments incorporated herein. RCW 60.28.011 states that public improvement contracts shall provide, and public bodies shall reserve, contract retainage not to exceed five percent (5%) of the monies earned by the vendor as a trust fund for the protection and payment of:

- (a) The claims of any person arising under the contract; and,
- (b) The State with respect to taxes imposed pursuant to Title 82 RCW, which may be due from such vendor.

At the option of the vendor, the moneys reserved shall be:

- Retained in a fund by the City; or,
- Deposited by the City in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by the City under the provision of a public improvement contract shall be paid to the vendor; or placed in escrow with a bank or trust company by the City. When moneys are placed in escrow, the City shall issue a check representing the sum of moneys reserved payable to the bank or trust company and the vendor jointly. This check shall be converted into bonds and securities chosen by the vendor and approved by the City and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid the vendor as the interest accrues. If vendor wishes to set up an escrow account for retainage deposits, an escrow agreement must be submitted for review thirty (30) days before first deposit. Also see Article 1-09.9 (1) of Standard Specifications; or
- Bond in lieu of retainage in a form acceptable to the City.

Retained funds are held until released by the City's disbursing officer upon compliance with all other City, State and Federal requirements. Per RCW 60.28.050, the City notifies the State Department of Revenue upon final acceptance of contracts above \$20,000 (including tax). The City shall not release retainage until it has received from Revenue a certificate that taxes, increases and penalties due from the vendor have been paid in full. RCW 60.28.011, requires the City also observe a forty-five (45) day wait period after date of semi-final acceptance, before release of retainage, to allow a reasonable period of public notification for any liens or claims. The date of semi-final acceptance is the date the Council authorizes same.

The monies deposited in this account may be used by the bank to purchase as directed by the vendor, bonds or other securities chosen by the vendor and approved by the City. Below is a list of such bonds or other securities approved by the City.

- (a) Bills, certificates, notes, or bonds of the United States;
- (b) Other obligations of the United States or its agencies;
- (c) Obligations of any corporation wholly owned by the government of the United States;
- (d) Indebtedness of the Federal National Mortgage Association;
- (e) Time deposits in commercial banks;

- (f) Money market deposits in commercial banks.

Vendor, subject to express written approval of the City, may select other bonds or securities, except stocks. Purchase of such bonds or other securities shall be in a form that shall allow you alone to reconvert such bonds or other securities into money if you are required to do so by the City as provided in paragraph two (2) of this Agreement.

- 36. **Payments:** Refer to Standard Specification 1-09.9. In addition, the vendor shall be paid, upon submission of a proper payment request, the prices stipulated herein for services performed (less deductions, if any), in accordance with all payment and retainage instructions herein. All accounts are paid according to RCW 39.76.020, Section 4C. Submitted payment requests must contain the following minimum information:
 - a. Purchase order and contract number (mandatory);
 - b. Item number, quantity and description as appropriate;
 - c. Unit and extended prices;
 - d. Shipping charges when applicable,
 - e. Affidavit of Prevailing Wages Paid from the Department of Labor and Industries,
 - f. Sales tax as applicable.

Mail Payment Requests to:

City of Lynnwood
Attn: Accounts Payable
P.O. Box 5008
Lynnwood, WA 98046-5008.

Vendor shall be paid thirty (30) days after receipt of an undisputed invoice.

- 37. **Liquidated Damages:** Time is of the essence of the contract, and vendor acknowledges that the City will suffer monetary and other damages in the event of an unexcused delay in substantial completion of the work. If the vendor fails or otherwise refuses to complete the work within the contract time including any proper extension thereby granted by the City, then vendor agrees to pay the City the amount specified in the contract, not as a penalty, but as liquidated damages for such breach of contract, for each and every calendar day that the Vendor shall be in default after the time stipulated in the contract for substantial completion of the work. The Special Provisions provided in the contract documents may include a specified value due for liquidated damages. If no liquidated damage value has been assigned in the Special Provisions, the City shall assess damages and apply as calculated by the City.
- 38. **Claims and Dispute Resolution:** A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment of contract terms, payment of money, extension of time or other relief with respect to the terms of the contract. A claim may also include other disputes and matters in question between the City and vendor arising out of or related to the contract. Claims must be made in writing. The responsibility to substantiate claims shall rest with the party making the claim. A notice of a potential or future claim does not constitute a claim. Any claims of the vendor against the City for damages, additional payment for any reason, or extension of time, whether under the Contract or otherwise, must be made in strict accordance with the applicable provisions of the contract. No act, omissions, or knowledge, actual or constructive, of the City shall in any way be deemed a waiver of the requirement for timely written notice and a timely written claim unless the City provides vendor with an explicit, unequivocal written waiver.
 - a. All claims must be addressed to: Public Works Director or designee, City of Lynnwood, PO Box 5008, Lynnwood, WA 98046-5008.
 - b. Vendor shall submit in writing to the City all claims, within fourteen (14) days of the event giving rise to the claim. Written claim(s) must specify the conditions and requested relief. The City shall consider such claim and shall meet with the vendor to confer and attempt to resolve the claim.

- c. Vendor shall diligently carry on the work and maintain the vendor's construction schedule during any dispute resolution proceedings, unless otherwise agreed by it and the City in writing.

Mediation: If the claim is not resolved in the process provided immediately above, neither the vendor nor any subcontractor or supplier of any tier may bring a claim against the City in litigation unless the claim is first subject to nonbonding mediation before a single mediator under the Voluntary Construction Mediation Rules of the American Arbitration Association. This requirement cannot be waived except by an explicit written waiver signed by the City and vendor.

Litigation: Vendor may bring no litigation on claims unless such claims have been properly raised and considered as provided above. All unresolved claims of vendor shall be solved and released unless vendor complies with the time limits above, and litigation is served and filed within the earlier of (a) one hundred twenty (120) days after the day of substantial completion designed in writing by the City (provided that a mediation session has occurred as provided above); or (b) sixty (60) days after final acceptance. This requirement cannot be waived except by an explicit written waiver signed by the City.

39. **Removal from Shared Small Works Roster for Failure to Perform:** The City retains the right to report the awarded vendor to the Municipal Research Service Center (MRSC) Rosters, if in the City Purchasing and Contracts Manager's opinion, the vendor has failed to satisfactorily and promptly perform and/or complete the Project as required by the City.
40. **Indemnification:** To the maximum extent permitted by law, the vendor shall be liable for and shall hold the City harmless from all damages and injuries caused to persons or property arising out of the performance of this contract. The vendor agrees to assume the defense of the City and its officers and employees in all legal proceedings or claims with third parties connected with the vendor's performance under this contract, to pay all expenses, including reasonable attorney's fees, incurred by the City directly or indirectly on account of such legal proceedings, and to satisfy any judgment rendered in connection therewith or to pay or reimburse the payment of any sums reasonable to settle such proceedings or claims.
41. **Patents, Trademarks and Copyrights:** Vendor warrants that products furnished do not infringe upon any patent, registered trademark or copyright, and agrees to hold the City harmless in the event of infringement or claim thereof.
42. **Liens/Title:** Vendor warrants that items to be furnished are free and clear of all liens and encumbrances and that vendor has good and marketable title to same.
43. **Hold Harmless:** The vendor shall hold the City and its officers, agents and employees harmless from all costs, claims or liabilities of any nature including attorneys; fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from the negligent activities or omissions of the vendor, its agents or employees pursuant to the contract, or on account of any unpaid wages or other remuneration for services; and if a suit as described above be filed, the vendor shall appear and defend the same at its own cost and expense, and if judgment be rendered or settlement made requiring payment by the City, the vendor shall pay the same.
44. **Ownership of Documents:** All documents, data, drawings, specifications, software applications and other products or materials produced by the vendor in connection with this contract shall be the property of the City whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. Vendor shall preserve the confidentiality of all the City documents and data accessed for use in vendor's work product.
45. **Workers Right to Know:** WAC 296-62-054 requires that manufacturers of hazardous substances include with each delivery, a MSDS (Material Safety Data Sheets) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with: (1) identity of the hazardous material; (2) appropriate hazardous warnings; and (3) name and address of the chemical manufacturer, importer or responsible party. Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment

pending receipt of a legible copy of the MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement, unless it is modified to include appropriate information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

46. **Mutual Responsibility of Vendor:** If, through acts of neglect on the part of the vendor, any other vendor or any subcontractor shall suffer loss or damage on the work, the contract agrees to settle with such other vendor or subcontractor by agreement or arbitration if such other vendor or subcontractors will so settle. If such other vendor or subcontractor shall assert any claim against the City account of any damage alleged to have been sustained, the City shall notify vendor, who shall indemnify and save harmless the City against any such claim.
47. **Compensation and Employee's Liability Insurance:** Vendor shall maintain Worker's Compensation Insurance as required by State Statute for all employees engaged in work on this contract. Should any work be subcontracted, the vendor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all subcontractor employees engaged in the work. In the event any class of employees engaged in work under this contract at the project site is not covered under the Workmen's Compensation Insurance as required by State statute, the vendor shall provide and shall cause each subcontractor to provide Employer's Liability Insurance with a private insurance company for limits of at least \$100,000 each person and \$300,000 each accident and furnish satisfactory evidence of the same.
48. **Federal Endangered Species Act:** Vendor is responsible for compliance with the Federal Endangered Species Act ("ESA") in the means and methods for performance of the contract work. The City has a strict Environmental Assessment Policy that all vendors are required know and comply with. This policy shall be a condition of bidding and performing work. Vendor may request a copy of the policy from the Public Works Director or designee, unless attached for immediate reference, and shall in any event comply with take avoidance "measures."

SAMPLE

**CITY OF LYNNWOOD
SMALL WORKS CONTRACT**

Contract Title: XXXX
Contract # 2767

THIS CONTRACT made and entered into this XX day of XXX, 20xx, by and between the CITY OF LYNNWOOD, a Municipal Corporation (the “City”), and XXXX (the “Vendor”).

Vendor Business Name:

Vendor Address:

Vendor Phone:

Vendor Fax:

Vendor Contact Name:

Vendor Email:

Federal Employee ID No.:

Authorized City Representative:

WITNESSETH: That in consideration of the terms and conditions contained herein and attached and the City’s Invitation to Bid (ITB) dated xxxxx xx, 20XX and the vendor’s responses to this ITB dated xxxxxxx xx, 20xx are hereby made a part of this contract, the parties hereto covenant and agree as follows:

- I. The vendor shall do all work and furnish all tools, materials and equipment for the following named project:

XXXXContract TitleXXX, BID # XXXX

The City agrees to pay the vendor the sum of XXX
(\$ XX), which xxincludes/xxdoes not include all applicable sales and use tax.

Vendor shall perform all work in accordance with and as described in the City’s Invitation to Bid (ITB) #xxxx dated XXXX, the vendor’s response to this ITB dated XXXXX. all attachments, including attached change orders if any, addendums if any, bid sheet, special provisions, plans and specifications, prevailing wage rates, General Provisions, and the 2012 Standard Specifications of the Washington State Department of Transportation, which are by this reference incorporated herein and made part hereof, and shall perform any changes in the work in accord with the contract documents.

Work shall be performed in ___XX___ (_XX_) working days following the issuance of the written Notice to Proceed to the vendor. If the work is not completed within the contract time, the vendor agrees to pay the City as **liquidated damages** the sum of xxx Dollars and No Cents (**\$xxx**) for each day the project remains uncompleted after the expiration of the contract time. Such liquidated damages are appropriate and are agreed upon by the parties because of the impracticability and difficulty of ascertaining the actual damages the City would sustain in the event of non-completion within the contract time.

SAMPLE

The vendor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these contract documents except those items mentioned therein to be furnished by the City.

- II. The City hereby promises and agrees with the vendor to employ, and does employ the vendor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided in this contract.
- III. The vendor for him/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to full performance of all covenants required for the vendor in the contract.
- IV. It is further provided that no liability shall attach to the City because of entering into this contract, except as provided herein.

IN WITNESS WHEREOF, the vendor has executed this instrument, on the day and year first written above, and the authorized official has caused this instrument to be executed by and in the name of the said City of Lynnwood on the day and year first written.

<p>CITY OF LYNNWOOD WASHINGTON</p> <p>By: _____ Nicola Smith, Mayor</p> <p>_____</p> <p>Date</p>	<p>Vendor [Vendor's Complete Legal Name]</p> <p>By: _____</p> <p>Printed Name: _____</p> <p>Its _____</p> <p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>By: _____ Sonja Springer Finance Director</p> <p>_____</p> <p>Date</p>	

MEADOWDALE PARK MAP

**REFER TO ATTACHMENTS:
A, B, C, D**

Meadowdale Park Improvements

BID # 2767

SPECIFICATIONS AND DRAWINGS

**REFER TO ATTACHMENTS:
E, F, G**

Meadowdale Park Improvements

BID # 2767