

CONTRACTOR NAME: Lake Defense Force Corporation  
CONTACT PERSON: Jay O’Neal  
ADDRESS: 10457 8<sup>th</sup> Ave SW  
Seattle, WA 98146  
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 88-1261653/604888247  
TELEPHONE/FAX NUMBER: (206) 640-5584  
COUNTY DEPT: DCNR/Surface Water Management  
DEPT. CONTACT PERSON: Marisa Burghdoff  
TELEPHONE NUMBER: (425) 388-3204  
PROJECT: Invasive Aquatic Diving and Diver  
Assisted Suction Harvesting (DASH)  
Services  
AMOUNT: \$373,000  
FUND SOURCE: 4153095110300, 4153095111771 &  
4153095111783  
CONTRACT DURATION: Date of Execution - 3 years

AGREEMENT # SWMCC05-23 FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the “Agreement”) is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”) and LAKE DEFENSE FORCE, a Washington Corporation (the “Contractor”). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is for diving services and diver assisted suction harvesting (DASH) services to locate and remove invasive aquatic plants in Snohomish County lakes to improve their ecological health and recreational suitability. The scope of services is described in Schedule A, which is attached hereto and by this reference made a part of this Agreement. This Agreement is the product of County RFP No. 23-011TB Invasive Aquatic Diving and Diver Assisted Harvesting (DASH) Services.

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment used by the Contractor in connection with

performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon Execution (the “Effective Date”) and shall terminate three (3) years after execution, PROVIDED, HOWEVER, that the term of this Agreement may be extended for up to two (2) additional one (1) year periods at the sole discretion of the County by providing written notice from the County to the Contractor. The County’s obligations after December 31, 2023 are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Services. The County will pay the Contractor for services as directed by County staff and set forth in Schedule A subject to the provisions contained in this Agreement.

b. Compensation, Overhead and Expenses. The Contractor’s compensation for services includes overhead, exclusive of reimbursable expenses, only to the extent set forth in Schedule B attached hereto and by this reference made a part of this Agreement. The Contractor may be reimbursed at cost with no additional markup for the reimbursable expenses to the extent set forth in Schedule C attached hereto and by this reference made a part of this Agreement.

c. Invoices. The Contractor shall submit properly executed invoices to the County no more frequently than monthly. Each invoice shall include an itemization of the dates on which services were provided, including the number of hours and a brief description of the work performed on each such date. Each invoice shall also include an itemization of any reimbursable expenses incurred by the Contractor during the time period covered by the invoice, together with reasonable documentation substantiating such expenses, all in accordance with this Section 3 and Schedules B and C. Subject to Section 8 of this Agreement, the County will pay such invoices within thirty (30) calendar days of receipt.

**All invoices must be sent for contract compliance review to:**

**[SWMContracts@snoco.org](mailto:SWMContracts@snoco.org) (preferred)**

**Or**

**Snohomish County Surface Water Management  
Attn: Connie Price  
3000 Rockefeller, M/S 303  
Everett, WA 98201**

d. Payment. The County's preferred method of payment under this Agreement is electronic using the County's "e-Payable" system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email [SnocoEpayables@snoco.org](mailto:SnocoEpayables@snoco.org) and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County's e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic ("e-Payable") payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to this Agreement.

e. Payment Method. In addition to Payment section above, the County may make payments for purchases under this Agreement using the County's VISA purchasing card (PCARD).

Are you willing to accept PCARD payments without any fees or surcharges?  
Yes  No

f. Contract Maximum. Total charges under this Agreement, all fees and expenses, including reimbursables expenses, shall not exceed \$373,000 for the initial term of this Agreement (excluding extensions or renewals, if any).

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing

in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor's obligations under this Agreement (the "Contractor Personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor Personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor Personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor Personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Agreement shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the

County for this Agreement shall be:

Name: Marisa Burghdoff  
Title: Water Quality Specialist III  
Department: Conservation and Natural Resources  
Telephone: (425) 388-3204  
Email: marisa.burghdoff@snoco.org

8. County Review and Approval. When the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor's work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor's conduct.

9. Subcontracting and Assignment. The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

a. Professional Liability.

The Contractor agrees to indemnify the County and, if any funds for this Agreement are provided by the State, the State and their officers, officials, agents and employees from damages and liability for damages, including reasonable attorneys' fees, court costs, expert witness fees, and other claims-related expenses, arising out of the performance of the Contractor's professional services under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. The Contractor has no obligation to pay for any of the indemnitees' defense-related cost prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based upon the comparative fault of the Contractor, its principals, employees and subcontractors. For the purpose of this section, the County and the Contractor agree that the County's and, if applicable, the State's costs of defense shall be included in the definition of damages above.

b. All Other Liabilities Except Professional Liability.

To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County and, if any funds for this Agreement are provided by the State, the State, the Contractor shall indemnify and hold harmless the County and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Contractor. In addition, the Contractor shall assume the defense of the County and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the County and, if applicable, the State, on account of such litigation or claims.

The above indemnification obligations shall include, but are not limited to, all claims against the County and, if applicable, the State by an employee or former employee of the Contractor or its subcontractors, and the Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects only the County and, if applicable, the State, under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the County or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors and Omissions coverage, if applicable, may be written on a claims made basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operation. Contractual Liability shall be included; Stop Gap shall be included (unless insured as Employers Liability under Part B. of a Workers Compensation Insurance Policy); Personal Injury/Advertiser's Liability shall be included;

(ii) Automobile Liability: \$1,000,000 combined single limit for bodily injury and property damage, including Waiver of Subrogation endorsement in favor of County, on a coverage form at least as broad as CA 0001 current edition, on all owned, non-owned and hired autos.

(iii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;

(iv) Employers' Liability or "Stop Gap" coverage: \$1,000,000;

(v) Professional Liability (to cover divers): \$1,000,000 each occurrence, \$2,000,000 agg.

d. Additional Project-Specific Insurance:

(i.) Marine General Liability (OR GL with no marine exclusion) covering bodily injury including wrongful death, third party property damage including loss of use thereof, premises/operations liability, products/completed operations, personal/advertising injury, contractual liability, stop gap or employer's liability (for monopolistic state projects), fire damage legal liability, action over indemnity, sudden and accidental pollution, amended exclusions for care, custody and control and watercraft liability to cover work related to this project. Coverage also to extend to cover stevedores legal liability, wharfinger's legal liability, terminal operator's liability and charterer's legal liability, when applicable. Coverage shall be on an occurrence basis and limits of liability shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The General Aggregate limit is to apply separately to each project.

(ii.) Protection and Indemnity Insurance covering injuries to or death of masters, mates, crews of vessels and Maritime employees. Coverage is to include Voluntary Removal of Wreck and/or Debris Insurance. The limits of liability of such insurance shall be equal to the value of each Vessel covered or \$1,000,000, whichever is greater.

(iii.) For work on or adjacent to water, the Contractor shall make the determination as to whether workers are to be covered under the Longshoremen's and Harbor Worker's Compensation Act administered by the U.S. Department of Labor, Jones Act, or the State Industrial Insurance coverage administered by the Washington State Department of Labor and Industries, or multiple coverages. Policy shall contain an Alternate Employers endorsement in favor of Owner. Such insurance shall provide statutory limits for compensation coverage and with minimum limits of \$1,000,000 for employers and maritime employer's liability.

(iv.) Vessel Pollution Insurance covering all owned or operated watercraft used in performing work and/or services related to this project. Such coverage shall be written on the Water Quality Insurance Syndicate policy form, or equivalent, and shall include bodily injury. Limits of liability shall be in accordance with OPA90, but not less than \$1,000,000 each



occurrence, \$2,000,000 aggregate. Vessel owner or operator shall also have Certificate of Financial Responsibility pursuant to OPA90, Coast Guard Regulations and State of California, as required.

e. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

(i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.

(ii) The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

(iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the County.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

f. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national

origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

15. Employment of County Employees. SCC 2.50.075, "Restrictions on future employment of County employees," imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds the Contractor's work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or

resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

b. If the Contractor breaches any of its obligations hereunder, and fails to cure the same within thirty (30) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall pay the Contractor only for the services and corresponding reimbursable expenses, if any, accepted by the County in accordance with Sections 3 and 8 hereof.

c. The County may terminate this Agreement upon 30 business days' written notice to the Contractor for any reason other than stated in subparagraph b above, in which case payment shall be made in accordance with Sections 3 and 8 hereof for the services and corresponding reimbursable expenses, if any, reasonably and directly incurred by the Contractor in performing this Agreement prior to receipt of the termination notice.

d. Termination by the County hereunder shall not affect the rights of the County as against the Contractor provided under any other section or paragraph herein. The County does not, by exercising its rights under this Section 21, waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. At its sole option, the County may deduct from the final payment due the Contractor (i) any damages, expenses or costs arising out of any such violations, breaches or non-performance and (ii) any



The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP or RFQ identified in Section 1. The RFP or RFQ and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP or RFQ, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP or RFQ and the Contractor's response, the RFP or RFQ shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.



## **Schedule A Scope of Services**

The goal of the invasive aquatic plant diving services provided through this Agreement is to locate and eradicate or greatly reduce the population of aquatic noxious weeds in Snohomish County lakes to improve their ecological function and recreational suitability. Invasive aquatic plant eradication season typically runs from May through October, with the majority of in-water work occurring from June through August.

Annual work needs may change based on environmental conditions, success of previous years' invasive plant removal efforts, and the emergence of new invasive aquatic plant species.

### 1. Pre-season Work

Attend pre-season planning meetings, as requested by the County, to finalize scheduling and logistics of invasive plant removal for a given season.

### 2. Seasonal In-Water Work

a. Conduct diving work to locate and remove targeted invasive aquatic plants in Snohomish County lakes, as directed by County staff.

b. Conduct in-water survey and plant removal work Monday – Friday; work on weekends and holidays is not allowed without prior written approval from the County.

c. The expectation is to perform 6 hours of in-water work on any given dive day consisting of diver surveying and removal of invasive plants by hand-pulling, or use of Diver Assisted Suction Harvesting (DASH).

d. Perform underwater survey and plant removal work under all applicable federal and state regulations including the standards for commercial diving operations in chapter 296-37 WAC. All diving activities shall be conducted in accordance with the Contractor's diver safety manual.

e. Conduct survey and hand-pulling of invasive aquatic plants as applicable, typically for low-density plant populations.

f. Survey all areas of the subject lake to a depth of approximately 20 feet or until plant growth is sparse or no longer visible.

g. In-water survey teams shall consist of two divers surveying together. Survey teams shall use underwater scooters whenever possible to maximize survey efficiency.

h. When target invasive plants are identified, survey teams shall record their positions and remove the invasive plants by hand-pulling unless removal using a DASH system is appropriate.

- i. Operate a DASH system to selectively target and remove invasive aquatic plants as applicable, typically for high-density plant populations.
- j. Conduct hand-pulling and DASH removal of target plants so all biomass, including roots, is removed and minimize the spread of plant fragments.
- k. Minimize impacts to native plants.
- l. Properly dispose of all collected plant materials and debris ensuring no spread of invasive species to other waterbodies.

### 3. Mobilization and Demobilization

- a. Mobilize and demobilize each day of in-water work, as needed. Mobilization and demobilization work is anticipated to take 2-3 hours, with longer times anticipated when DASH equipment is used or when boats are launched or retrieved.
  - i. Mobilization includes the launching of boats, equipment and diver preparation, pump assembly (for DASH work), and travel from staging site to work area.
  - ii. Demobilization includes travel from work site to staging area, breakdown of equipment and diver gear, breakdown of pump (for DASH work), invasive plant biomass transport and disposal time, and end-of-day reporting with the County.
- b. Decontaminate all equipment prior to entering the lake and after leaving the lake to prevent the introduction of any aquatic invasive species according to current Washington State Department of Fish and Wildlife (WDFW) Invasive Management Protocols, available at <https://wdfw.wa.gov/species-habitats/invasive/prevention>. Equipment includes, but is not limited to, barge(s), boat(s), boat and vehicle trailers and tires, all on-board gear, hoses, pumps, distribution lines, booms, barge/boat motors, personal gear such as boots, and any onshore equipment or gear that could come in contact with lake water or allow aquatic invasive species to be washed into the lake.
- c. Manage the staging area (if needed) including setup, security, cleanup, and restoration to its original condition following completion of work at a given site. The default staging area at each lake will be the Washington State Department of Fish and Wildlife public access boat ramp. However, where available, alternative staging locations will be identified by County staff for use to maximize target plant removal efficiency. The staging area will be left in the same condition as before the site work began and photo-documented and verified by County staff prior to the acceptance of completion of work at the site.

### 4. Reporting

- a. End-of-day Reporting. On all work days, end-of-day reporting includes arrival and departure times, in-water diving logs, and a summary of areas surveyed and plants removed. Reports can be submitted via a County-provided online form or via email.



b. ArcGIS Online Reporting. Enter diver survey and hand-pulling plant removal results, including areas surveyed and location of single plants or groups of targeted plants with estimated numbers of plants pulled. Enter DASH removal results including areas of removal and estimate of plant removal per day (in pounds or other designated metric). ArcGIS data entry shall be completed within two weeks of the work performed to collect the data. Contractor must obtain an ArcGIS online application license and field collector application to input data into County's ArcGIS online map application.

5. Post-season Work

Attend post-season debrief meetings, as requested by the County, to discuss lessons learned and improvements for future work.

6. Other General Requirements

a. Contractor is responsible for providing all equipment, labor, and materials necessary to perform the work under this Agreement, including but not limited to boat(s) and trailer(s), DASH equipment, diving gear and air tanks, two (2) underwater scooters for efficient surveying over large areas, safety equipment, and any equipment needed for the collection and disposal of invasive plants.

b. Contractor is responsible for obtaining any necessary permits or approvals for all activities performed under this Agreement.

c. Divers must have SCUBA diver training and qualifications per applicable federal and state regulations to perform underwater surveys, aquatic plant identification, hand-removal of aquatic plants, and DASH system operation.

d. Boat operators must maintain a Washington State Boater's license and ensure safe operation of boats and follow all state and local boating regulations.

e. Transport, handle, store, and use all oil, fuel, or other products in a manner that prevents spills. The contractor shall have available at all times absorbent materials for spill cleanup and all appropriate spill containment materials. In the event of a spill, the contractor shall take immediate and all necessary actions to contain and clean up the spill.

**Schedule B  
Compensation  
(2023-2026)**

**Compensation** – all rates below for Schedule B will be invoiced on actual costs.

**Daily Diver Survey/Handpulling Cost Table**

<b>Labor Costs (Assumes one diving day is 6 hours of in-water work plus mobilization and demobilization)</b>			
<b>Labor Categories</b>	<b>Rate per Hour</b>	<b>Goal hours/day</b>	<b>Estimated Daily Labor Cost</b>
Dive Supervisor	\$102.36	8.5	\$870.06
Boat Operator	\$102.36	8.5	\$870.06
Diver	\$102.36	8.5	\$870.06
Admin Fee	\$55.00	As needed	
<b>Estimated Labor Subtotal</b>			\$2610.18 plus Admin costs
<b>Non Labor Costs</b>			
	<b>Unit</b>	<b>Cost Each</b>	<b>Estimated Daily Non-Labor Cost</b>
Boat	Per day	\$500	\$500
Dive gear	Per set	\$65.87	\$131.74
Air tanks	Per fill	\$8.32	\$33.28
Underwater scooters	Each	\$20.00	\$40.00
<b>Estimated Non-Labor Subtotal</b>			\$705.02

**Daily DASH Cost Table**

<b>Labor Costs (Assumes one DASH day is 6 hours of in-water work plus mobilization and demobilization)</b>			
<b>Labor Categories</b>	<b>Rate per Hour</b>	<b>Goal hours per day</b>	<b>Estimated Daily Labor Cost</b>
Dive Supervisor	\$102.36	9.5	\$972.42
Boat Operator	\$102.36	9.5	\$972.42
Diver	\$102.36	9.5	\$972.42
Biomass Tech	\$76.77	9.5	\$729.32
Admin Fee	\$55.00	As needed	
<b>Estimated Labor Subtotal</b>			\$3,646.58 plus Admin costs
<b>Non Labor Costs</b>			
	<b>Unit</b>	<b>Cost Each</b>	<b>Estimated Daily Non-Labor Cost</b>
Boat	Per day	\$500	\$500
DASH Equipment	Per day	\$150	\$150
Dive gear	Per set	\$65.87	\$131.74
Air tanks	Per fill	\$8.32	\$33.28
Underwater scooters	Each	\$20.00	\$40.00
<b>Estimated Non-Labor Subtotal</b>			\$855.02

**Schedule C**  
**Reimbursable Expenses**

Reimbursable expenses will be reimbursed at the Actual Cost to the Consultant with no markup. Reimbursable expenses include the following classifications:

<b>Reimbursable Classifications</b>	<b>Rates</b>
<u>Mileage</u>	<u>Current IRS Rate</u>
<u>Plant disposal</u>	<u>At Cost</u>
<u>Annual ArcGIS Online License</u>	<u>At Cost</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Any additional classification of reimbursable expenses must receive prior written approval by the County. All reimbursable charges must be necessary for the services provided under this Agreement and approved by the County. Backup documentation will be required for reimbursement.