

RESOLUTION NO. 1813

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A PURCHASED SERVICES AGREEMENT WITH NEW RESTORATION AND RECOVERY SERVICES, LLC DBA AQUALIS FOR DRAINAGE CATCH BASIN INSPECTION AND DATA COLLECTION SERVICES

WHEREAS, the City's NPDES Municipal Stormwater Permit requires that the City inspects all publicly-owned catch basins once every two years; and

WHEREAS, inspections are due to be complete by February of 2022 and the City lacks sufficient staff resources to self-perform this work; and

WHEREAS, the City publicly advertised a Request for Proposals (RFP) on September 3, 2021, and received no responses; the City staff then contacted and directly negotiated with three vendors for the work described in the RFP; and

WHEREAS, City staff have evaluated the proposal and determined that the Vendor's proposal meets the minimum qualifications criteria specified in the RFP and represents the lowest-cost, responsive offer to complete the required inspections;

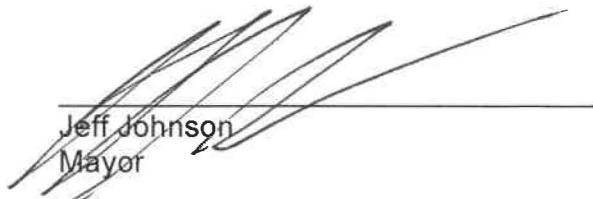
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lake Forest Park, as follows:

Section 1. AUTHORIZATION TO EXECUTE AGREEMENT. The City Council of the City of Lake Forest Park authorizes the Mayor to sign the agreement with New Restoration and Recovery Services, LLC dba AQUALIS for Drainage Catch Basin Inspection and Data Collection Services, included herewith as Attachment A.

Section 2. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this resolution including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

PASSED BY A MAJORITY VOTE of the members of the Lake Forest Park City Council this 14th day of October, 2021.

APPROVED:



Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:



Evelyn Jahed
City Clerk

FILED WITH THE CITY CLERK: October 8, 2021
PASSED BY THE CITY COUNCIL: October 14, 2021
RESOLUTION NO.: 1813

ATTACHMENT A to Resolution 1813

CITY OF LAKE FOREST PARK PURCHASED SERVICES AGREEMENT

Agreement Title: Drainage Catch Basin Inspection and Data Collection Services

THIS AGREEMENT made and entered into by and between the CITY OF LAKE FOREST PARK, a Washington municipal corporation (the "City"), and New Restoration and Recovery Services, LLC dba AQUALIS (the "Vendor"), is dated the last date signed below.

Vendor Business: **New Restoration and Recovery Services, LLC
dba AQUALIS**
Vendor Address: 20909 70th Ave W, Edmonds, WA 98026
Vendor Phone: 206-783-3317
Vendor Fax: 919-287-2518
Contact Name: Nirpaul Kang
Vendor e-mail: nkang@aqualisco.com
Federal Employee ID No.: 47-0971227
Authorized City Representative for Andrew Silvia
this contract:

WHEREAS, the City's NPDES Municipal Stormwater Permit requires that the City inspects all publicly-owned catch basins once every two years; and

WHEREAS, the City lacks sufficient staff resources to self-perform this work; and

WHEREAS, the City publicly advertised a Request for Proposals (RFP) on September 3, 2021, and having received no responses, City staff entered into direct negotiations with vendors and received a proposal from Vendor; and

WHEREAS, City staff have evaluated the proposal and determined that the Vendor's proposal meets the minimum qualifications criteria for the work described in the RFP and represents the lowest-cost, responsive offer to complete the required inspections;

NOW, THEREFORE, the parties herein do mutually agree as follows:

1. Employment of Vendor. The City retains the Vendor to provide the services described in Exhibit A incorporated herein, for the Drainage Catch Basin Inspection and Data Collection Services project (collectively "Scope of Work" or the "Work"). Any inconsistency between this Agreement and the Scope of Work shall be resolved in favor of this Agreement. The Vendor shall perform the Work according to the terms and conditions of this Agreement.

The City may revise the Work and the compensation only by a written Change Order signed by the authorized representatives of the parties that shall become a part of this Agreement.

The project manager(s) of the Work shall be Nirpaul Kang. The project manager(s) shall not be replaced without the prior written consent of the City.

Exhibit A Work shall commence when the City issues a notice to proceed and it shall be

completed no later than February 1, 2022, unless the completion date is extended in writing by the City. Notwithstanding the foregoing, Vendor shall not be responsible for any delay or failure to meet deliverable deadlines if such delay or failure was caused in whole or in part by a delay or failure of the City.

2. Compensation.

A. The total compensation to be paid to Vendor for the Work in Exhibit A, including all services and expenses, shall not exceed sixty-one thousand, seven hundred and sixty-six dollars (\$61,766.10) as shown on Exhibit B, which shall be full compensation for the Exhibit A Work. Vendor shall invoice the City monthly on the basis of the portion of the Work completed each month by the Vendor and sub- contractors.

B. Vendor shall be paid in such amounts and in such manner as described in Exhibits A and B.

C. Vendor shall be reimbursed for Eligible Expenses actually incurred that are approved for reimbursement by the City in writing before the expense is incurred. If overnight lodging is authorized, Vendor shall lodge within the corporate limits of City.

3. Request for Payment.

A. Not more than once every thirty days the Vendor shall send electronically to Andrew Silvia, Project Manager, asilvia@cityoflfp.com, its request for payment of Exhibit A Work, accompanied by evidence satisfactory to the City justifying the request for payment, including a report of Work accomplished and tasks completed, and an itemization of Eligible Expenses with copies of receipts and invoices.

4. Work Product. The Vendor shall submit all reports and other documents specified in Exhibits A and B according to the schedule established in Exhibits A and B. If, after review by the City, the information is found to be unacceptable, Vendor, at its expense, shall expeditiously correct such unacceptable work. If Vendor fails to correct unacceptable work, the City may withhold from any payment due an amount that the City reasonably believes will equal the cost of correcting the work.

All reports, drawings, plans, specifications, and intangible property created in furtherance of the Work, and any intellectual property in such documents, are property of the City and may be used by the City for any purpose; provided that re-use without Vendor's permission shall be at the City's sole risk.

5. Termination of Contract. City may terminate this Agreement by sending a written notice of termination to Vendor ("Notice") that specifies a termination date ("Termination Date") at least fourteen (14) days after the date of the Notice. Upon receipt of the Notice, the Vendor shall acknowledge receipt to the City in writing and immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Vendor's material breach, the Vendor shall be paid or reimbursed for all hours worked and Eligible Expenses incurred up to the Termination date, less all payments previously made; provided that work performed after date of the Notice is reasonably necessary to terminate the Work in an orderly manner. The Notice may be sent by any method reasonably believed to provide Vendor actual notice in a timely manner.

6. Assignment of Contract – Subcontractors. Vendor shall not assign this contract or sub-contract or assign any of the Work without the prior written consent of the City.

7. Indemnification. To the extent provided by law and irrespective of any insurance required of the Vendor, the Vendor shall defend and indemnify the City from any and all Claims arising out

of or in any way relating to this Agreement; provided, however, the requirements of this paragraph shall not apply to that portion of such Claim that reflects the percentage of negligence of the City compared to the total negligence of all persons, firms or corporations that resulted in the Claim.

Vendor agrees that the provisions of this paragraph 7 apply to any claim of injury or damage to the persons or property of Vendor's employees. As to such claims and with respect to the City only, Vendor waives any right of immunity, which it may have under industrial insurance (Title 51 RCW and any amendment thereof or substitution therefore). THIS WAIVER IS SPECIFICALLY NEGOTIATED BY THE PARTIES AND IS SOLELY FOR THE BENEFIT OF THE CITY AND VENDOR.

As used in this paragraph: (1) "City" includes the City's officers, employees, agents, and representatives; (2) "Vendor" includes employees, agents, representatives sub-contractors; and (3) "Claims" include, but is not limited to, any and all losses, claims, causes of action, demands, expenses, attorney's fees and litigation expenses, suits, judgments, or damage arising from injury to persons or property.

Vendor shall ensure that each sub-contractor shall agree to defend and indemnify the City to the extent and on the same terms and conditions as the Vendor pursuant to this paragraph.

8. Insurance.

A. Vendor shall comply with the following conditions and procure and keep in force at all times during the term of this Agreement, at Vendor's expense, the following policies of insurance with companies authorized to do business in the State of Washington. The Vendor's insurance shall be rated by A. M. Best Company at least "A" or better with a numerical rating of no less than seven (7) and otherwise acceptable to the City.

1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Vendor shall require each sub-contractor to provide Workers' Compensation Insurance for its employees, unless the Vendor covers such employees.

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

4. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Coverage may be written on a claims made basis; provided that the retroactive date on the policy or any renewal policy shall be the effective date of this Agreement or prior, and that the extended reporting or discovery period shall not be less than 36 months following expiration of the policy. The City may waive the requirement for Professional Errors and Omissions Insurance whenever the Work does not warrant such coverage or the coverage is not available.

5. Each policy shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City.

Upon written request to the City, the insurer will furnish, before or during performance of any

Work, a copy of any policy cited above, certified to be a true and complete copy of the original.

B. Before the Vendor performs any Work, Vendor shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the above-required insurance and naming the City of Lake Forest Park, its officers, employees and agents as Additional Insured on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insured. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Vendor's obligations to fulfill the requirements.

C. Vendor shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Vendor shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

D. In case of the breach of any provision of this section, the City may provide and maintain at the expense of Vendor insurance in the name of the Vendor and deduct the cost of providing and maintaining such insurance from any sums due to Vendor under this Agreement, or the City may demand Vendor to promptly reimburse the City for such cost.

9. Independent Contractor. The Vendor is an independent Contractor responsible for complying with all obligations of an employer imposed under federal or state law. Personnel employed by Vendor shall not acquire any rights or status regarding the City.

10. Employment. The Vendor warrants that it did not employ or retain any company or person, other than a bona fide employee working solely for the Vendor, to solicit or secure this Agreement or pay or agree to pay any such company or person any consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right either to terminate this Agreement without liability or to deduct from the Agreement price or consideration or to otherwise recover, the full amount of such consideration.

11. Audits and Inspections. The Vendor shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Vendor's records and documents with respect to all matters covered by this Agreement.

12. City of Lake Forest Park Business License. Vendor shall obtain a City of Lake Forest Park business license before performing any Work.

13. Compliance with Federal, State and Local Laws. Vendor shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of the Work.

14. Waiver. Any waiver by the Vendor or the City of the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.

15. Complete Agreement. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.

16. Modification of Agreement. This Agreement may be modified by a Change Order as provided in Section 1, or by a writing that is signed by authorized representatives of the City and the Vendor.

17. Severability. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, the remainder of the Agreement shall remain in full force and effect.

18. Notices.

A. Notices to the City of Lake Forest Park shall be sent to the following address:

City of Lake Forest Park
Attn: Andrew Silvia, Project Manager
Engineering Department
17425 Ballinger Way NE
Lake Forest Park, WA 98155

B. Notices to the Vendor shall be sent to the following address:

AQUALIS
Attn: Nirpaul Kang, General Manager/Director
20909 70th Ave W
Edmonds, WA 98026

19. Venue. This Agreement shall be governed by the law of the State of Washington and venue for any lawsuit arising out of this Agreement shall be in King County.

20. Counterpart Signatures. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City and Vendor have executed this Agreement as of the date first above written

VENDOR:

**CITY OF LAKE FOREST PARK
WASHINGTON**

By: _____
Jeff Johnson, Mayor

Date _____

**New Restoration and Recovery
Services, LLC dba AQUALIS**

By: _____

(Typed/Printed Name)

Its _____
(Title)

Date: _____

ATTEST:

Evelyn Jahed, City Clerk

Date: _____

APPROVED AS TO FORM:

Kim Adams Pratt, City Attorney

Date: _____

EXHIBIT A
SCOPE OF WORK

Scope of Work

The Vendor shall perform the following Task(s), and furnish the associated deliverables, to complete the Project:

Task 1: Project Management

Task Description:

- Prior to beginning Task 2 work, attend a Project kickoff meeting with DPW staff at City Hall.
- Prior to completing Task 2 work, perform quality assurance and quality control (QA/QC) review and adjustments, respectively, to initial collected data to ensure a high quality Task 2 deliverable.
- Communicate with DPW throughout the Project as necessary to ensure orderly execution of Project work.
- Continuously monitor the Project scope, budget, and schedule and advise DPW of any risks to completing the Project as defined in the agreement. Adjustments to the agreement scope, budget, and schedule will not be authorized in arrears.
- Prepare Project invoices documenting the invoicing period/timeframe, the quantity of work performed per Task within the invoicing period, and associated fee(s).

Task Assumptions:

- At minimum, the Vendor's project manager and at least one crew member participating in Task 2 work shall attend the kickoff meeting. Meeting duration shall be two (2) hours.
- Invoices to be prepared and provided to DPW on monthly basis. DPW estimates that no more than three (3) invoices will be necessary, given the estimated duration of the Project.
- Project management effort necessary to execute potential amendments to the Vendor's contract are not to be included in this Task. If necessary, this effort will be included in the scope of work of the applicable contract amendment(s).

Task Deliverables:

- Three (3) invoices
- Email confirmation to DPW of QA/QC process completion

Task 2: Inspect Catch Basins

Task Description:

- The following describes the scope of work at each catch basin:
 - Mobilize to catch basin location using maps provided by DPW in the required apps (ESRI Field Maps, in this case).
 - Furnish and temporarily install appropriate work zone traffic controls per WSDOT Guidelines (see Attachment #2 in the City's Request for Proposals dated September 3, 2021, hereinafter "the RFP") prior to beginning inspection at each catch basin.
 - Using non-destructive means, remove the catch basin cover/grate and safely store the grate. At no point shall the Vendor leave open structures unattended.

- Perform and document inspection using the required apps (ESRI Field Maps and ESRI Survey123). The processes of editing mapped catch basin attribute information and documenting condition inspection results are illustrated in Attachment #4 of the RFP. In general, the following information will be collected at each structure:
 - Structure type and construction material
 - Structure interior dimensions
 - Inlet type and size
 - Depths from surface to pipe inverts and bottom of structure
 - Pipe sizes, orientations, and types
 - Presence of water quality or flow control device (y/n)
 - Fields that prompt the inspector to evaluate structure condition per the King County Surface Water Design Manual's (KCSWDM) Catch Basin Maintenance Standard¹
- Restore cover/grate to its original location on the catch basin frame and remove any Vendor-installed temporary traffic control devices.
- Prior to completing the Work, perform quality assurance review of inspection and data collection results and perform quality control efforts as needed to ensure a high quality deliverable.

Task Assumptions:

- DPW will provide the selected Vendor with the login information needed to use the required apps. The Vendor will provide the hardware suitable for running the required apps. See User Guide in Attachment #4 of the RFP for a detailed illustration of how to use the required apps, e.g. how to edit mapped feature attribute information and document the inspection results using the City's inspection form.
- Inspection of catch basins located within the Ballinger Way NE (SR-104) and Bothell Way NE (SR-522) and installation of associated temporary traffic control devices **shall not be performed** during the peak traffic volume hours of 7:00-9:00 AM and 3:00-6:00 PM, Monday through Friday.
- DPW expects that inspections and data collection work will be performed from the ground surface above the structure. Entry into catch basins and other confined spaces during inspection is not permitted.
- DPW expects that the inspection and data collection work will be performed using basic measuring devices (e.g. steel tape measure), flashlights, and other basic hand tools (e.g. picks, screwdrivers, hammers or mallets, rigid stakes or rods, etc.). DPW accepts the level of measurement precision (e.g. nearest 1") for measurements obtained using a steel tape) that these instruments offer and does not require the use of specialized inspection equipment, e.g. robotic cameras, land surveying equipment, or similar devices.

Task Deliverables:

- Inspection data recorded at each catch basin using required apps.
 - Note: the City will accept this deliverable for each structure when the structure's inspection data has been uploaded to the City's ArcGIS Online account and the Vendor has confirmed via email that the inspection result has completed the Vendor's QA/QC review.

¹ See Pages A-9 and A-10 of KCSWDM Appendix A for reference:

<https://your.kingcounty.gov/dnrp/library/water-and-land/stormwater/surface-water-design-manual/2021/2021-kcswdm-appendix-a-maintenace-requirements.pdf>

Task 3: Allowance for Contingency-based Services

Task Description:

- As part of the Contract Price, the Vendor shall include a project contingency allowance equal to 10% of the subtotal costs of Tasks 1 and 2.

Task Assumptions:

- Contingency-based services shall be reserved for services directly related to, but not specifically included in the scope of Task 1 or Task 2.
- The Vendor shall contact the DPW's contract manager if a potential need to perform out-of-scope services is identified, at which point DPW may engage the Vendor in negotiation of a scope and fee for these services. Contingency-based services shall not be performed, nor shall associated fees be remitted, until and unless DPW provides the Vendor with written authorization to proceed with Task 3 work.

Task Deliverables:

- To be determined

Project Schedule

The Vendor shall complete the Project by February 1, 2022. DPW expects to execute an agreement with the Vendor and issue Notice To Proceed (NTP) no later than November 15, 2021.

General Conditions

- The Vendor shall obtain all permits necessary to complete the Project. The cost(s) to obtain said permits, if applicable, shall be included in the Contract Price.
- The Cost Proposal Form (see Exhibit B) includes the Vendor's unit price for Task 2 (price per catch basin), which will be utilized as follows:
 - To compute adjustments to the Contract Price prior to contract award, if the City determines this is necessary to align the Project cost with available funding.
 - To compute adjustments to the Contract Price during Project work if the actual quantity of catch basins inspected differs from the estimated quantity cited herein.

The unit price quoted on the Cost Proposal Form shall include its pro rata share of expenses, overhead and profit so that the product obtained by multiplying the quantity shown for this item by the unit price represents the Extended Price. The price submitted for items requiring a lump sum price shall also include all overhead and profit and represents the Extended Price. The special attention of the Vendor is called to this provision, for should conditions make it necessary to revise the quantity of Task 2 work, no adjustment in the unit price will be allowed provided the net monetary value of such revisions (i.e., difference in cost) shall not increase or decrease the original Contract Price by more than twenty-five percent (25%).

- As noted in the attached sample agreement, compensation to the Vendor shall be rendered on the basis of work completed during the timeframe applicable to the Vendor's invoice. During this Project, satisfactory evidence of completed work shall include:

- For Task 1: Attendance at kickoff meeting and furnished copies of Task 1 deliverables.
- For Task 2: Furnished Task 2 deliverables. Compensation shall be calculated as the product of the unit price per catch basin offered on the Vendor's Cost Proposal Form and the quantity of catch basins inspected during the invoice period.
- For Task 3: Furnished Task 3 deliverable(s) to be determined.
- The Scope of Work includes performing work in compliance with the following:
 - WSDOT Work Zone Traffic Control Guidelines for Maintenance Operations dated May 2021 attached to the RFP;
 - Catch Basin Inspection and Data Collection – using ArcGIS Field Maps and Survey123, the user guide having been attached to the RFP.

EXHIBIT B

Cost Proposal Form
Drainage Catch Basin Inspection and Data Collection Services

1.00 OFFER:

- A. Having examined the work site(s) and all matters referred to in the Instructions to Respondents and the RFP prepared by the City of Lake Forest Park dated September 3, 2021, we, the undersigned, hereby offer to enter into a Contract to perform the Work, **Drainage Catch Basin Inspection and Data Collection Services**, for the amount indicated below.
- B. The undersigned hereby acknowledges and understands that the City of Lake Forest Park (Owner) has the right to reject any and all offers, waive minor irregularities in any offer, award the entire project, or delete portions of the work based on available funding, whichever is in the best interest of the Owner.

ROW	ITEM	UNITS	QUANTITY	UNIT PRICE	EXTENDED PRICE (\$USD) <u>INCLUDING WA STATE SALES TAX</u>
1	TASK 1 – PROJECT MANAGEMENT	LS	(N/A)	(N/A)	\$ _____
2	TASK 2 – INSPECT CATCH BASINS	EA (per CB)	1,700	\$ 33.03	\$ 56,151.00
3	SUBTOTAL – TASKS 1 & 2	(N/A)	(N/A)	(N/A)	\$ _____
4	TASK 3 – CONTINGENCY-BASED SERVICES: <i>(MULTIPLY AMOUNT ENTERED FOR ROW 3 ABOVE BY 0.10)</i>	LS	(N/A)	(N/A)	\$ 5,615.10
5	TOTAL PRICE <i>(SUM OF AMOUNTS ENTERED IN ROWS 3 & 4 ABOVE)</i>	(N/A)	(N/A)	(N/A)	\$ 61,766.10