

RESOLUTION NO. 23-1932

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A PURCHASED SERVICE CONTRACT AGREEMENT WITH VENTILATION POWER CLEANING, INC. FOR 2023 STORMWATER SYSTEM CLEANING

WHEREAS, the National Pollutant Discharge Elimination System (NPDES) Phase II Western Washington Municipal Stormwater Permit ("Permit") requires that the City clean stormwater system catch basins and storm drainage pipes as needed based on the results of qualified biannual inspections; and

WHEREAS, the Department of Public Works (DPW) determined the scope of stormwater system cleaning work required per inspections completed earlier this year and distributed an Invitation to Bid (ITB) on a contract to complete the required cleaning work to MRSC roster vendors on October 20, 2023; and

WHEREAS, DPW received one bid in the amount of \$128,750.00 from Ventilation Power Cleaning, Inc. ("Vendor") on October 31, 2023, in response to its ITB; and

WHEREAS, DPW reviewed the bids and determined that the Vendor's bid to be responsive and responsible per the ITB requirements and subsequently prepared the draft Purchase Service Agreement included herewith as Attachment 1;

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 Ventilation Power Cleaning, Inc. in substantially the form included herewith as Attachment 1.

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.

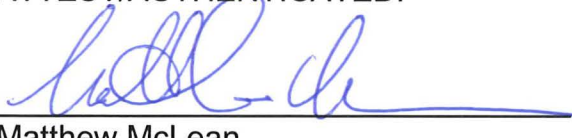
PASSED BY A MAJORITY VOTE of the members of the Lake Forest Park City Council this 9th day of November, 2023.

APPROVED:



Tom French
Deputy Mayor

ATTEST/AUTHENTICATED:



Matthew McLean
City Clerk

FILED WITH THE CITY CLERK: November 3, 2023
PASSED BY THE CITY COUNCIL: November 9, 2023
RESOLUTION NO.: 23-1932

**EXHIBIT A to Resolution 23-1932
CITY OF LAKE FOREST PARK
PURCHASED SERVICES
AGREEMENT**

Agreement Title: 2023 Stormwater System Cleaning

THIS AGREEMENT made and entered into by and between the **CITY OF LAKE FOREST PARK**, a Washington municipal corporation (the "City"), and **VENTILATION POWER CLEANING, INC.**, a Washington corporation (the "Vendor"), is dated the last date signed below.

Vendor Business: Ventilation Power Cleaning, Inc.

Vendor Address: 3914 Leary Way NW, Seattle, WA 98107

Vendor Phone: 206-634-2750

Contact Name John Linn

Vendor e-mail: john@ventilationpower.com

Federal Employee ID No.: 91-0843303

Authorized City Andrew Silvia
Representative for this
contract:

WHEREAS, the City published an Invitation to Bid for stormwater system cleaning services on October 20, 2023 and received one (1) bid in response from the Vendor on October 31, 2023; and

WHEREAS, the City has determined that the Vendor's bid was the lowest responsive and responsible bid submitted;

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 2023 Stormwater System Cleaning 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 John Linn. 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 within 45 working days of the effective date provided in the notice to proceed 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 one hundred, twenty-eight thousand, seven hundred, fifty dollars (\$128,750.00) 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 subcontractors.

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, Senior Project Manager (asilvia@cityoflfp.gov) and ap@cityoflfp.gov, 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. The Vendor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Vendor and the City, its officers, officials, employees, and volunteers, the Vendor's liability hereunder shall be only to the extent of the Vendor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Vendor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Vendor shall ensure that each subcontractor 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. Insurance Term

The Vendor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Vendor's work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation

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

C. Minimum Scope of Insurance

The Vendor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Vendors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an endorsement providing at least as broad coverage. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Vendor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

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

D. Minimum Amounts of Insurance

The Vendor shall maintain the following insurance limits:

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

E. City Full Availability of Vendor Limits

If the Vendor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Vendor, irrespective of whether such limits maintained by the Vendor are greater than those required by this Contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Vendor.

F. Other Insurance Provision

The Vendor's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Vendor's insurance and shall not contribute with it.

G. Acceptability of Insurers

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

H. Verification of Coverage

The Vendor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Vendor before commencement of the work. Upon request by the City, the Vendor shall furnish certified copies of all required insurance policies, including endorsements, required in this Contract and evidence of all subcontractors' coverage.

I. Subcontractors' Insurance

The Vendor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Vendor-provided insurance as set forth herein, except the Vendor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Vendor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

J. Notice of Cancellation

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

K. Failure to Maintain Insurance

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

9. Independent Vendor. The Vendor is an independent Vendor 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, Senior Project Manager
Public Works Department
17425 Ballinger Way NE
Lake Forest Park, WA 98155

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

Ventilation Power Cleaning, Inc.
Attn: John Linn
3914 Leary Way NW
Seattle, WA 98107

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.

21. Prevailing Wages. The work under the Contract may be subject to the prevailing wage requirements of chapter 39.12 RCW, as amended or supplemented. If this Contract is subject to prevailing wage requirements, the Contractor, each of its subcontractor(s) and other person(s) doing any work under the Contract shall pay all laborers, workers, or mechanics not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the State of Washington where such labor is performed as required by law. The prevailing rate of wage to be paid to all workman, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of the prevailing wage rates for the Industrial Statistician of the Department of Labor and Industries, are by reference made a part of this contract as though fully set forth herein. These rates may be accessed on the internet at <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

Pursuant to RCW 39.12, prior to payment by the City, the Contractor must submit -- on behalf of itself and each and every subcontractor at every tier -- a "Statement of Intent to Pay Prevailing Wages," which must be approved by the Department of Labor and Industries prior to its submission. Within fifteen (15) days of the final acceptance of the Contractor's work under this Contract, the Contractor must submit -- on behalf of itself and every subcontractor -- an "Affidavit of Wages Paid".

OR

At the option of the City, the Contractor may use the combined Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid form. Contractor must meet the Washington State Department of Labor and Industries criteria for use of the form. Combined forms may be requested from the City.

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

**CITY OF LAKE FOREST PARK,
WASHINGTON**

VENDOR: Ventilation Power Cleaning,
Inc.

By: _____
Jeff Johnson, Mayor

Date: _____

By: _____

(Typed/Printed Name)

Its: _____

Date: _____

ATTEST:

Matthew McLean, City Clerk

Date: _____

APPROVED AS TO FORM:

Kim Adams Pratt, City Attorney

Date: _____

EXHIBIT A
SCOPE OF WORK

SCOPE OF WORK

A. Location

- i. All catch basin structures and pipes subject to the Work are located in various public streets in the City of Lake Forest Park, WA. No Work will be performed on private property.
- ii. Web-based GIS and hard copies of maps showing the locations where catch basin and/or pipe cleaning is required will be provided separately to the Contractor following contract execution.

B. General Requirements

- i. The Contractor shall provide and implement all temporary work zone traffic control measures that may be necessary to effect the safe and orderly diversion of vehicular, pedestrian, and bicycle traffic around the Contractor's operations. All costs for temporary work zone traffic control shall be incidental to and included in the unit or lump sum prices of the contract and no additional payment will be made. Additional traffic control requirements include:
 - i. The Contractor shall fabricate and provide temporary installation of notices advising the public of any restrictions to street parking that may be necessary to accomplish the Work. The Contractor shall post notices—e.g. zip tie to road signs or street trees—within public right of way at least 48 hours in advance of Work requiring the temporary relocation of parked vehicles, and shall remove the notices following completion of Work.
 - ii. Neither road closures nor driveway closures shall be implemented as a traffic control measure.
- ii. The Contractor's means and methods used to execute the Work shall not cause physical alteration or damage to the municipal separate storm sewer system (MS4) assets subject to the Work. It is recognized that there are some conditions such as broken pipe that prevent cleaning from being accomplished or where additional damage would result if cleaning were attempted or continued. Should such conditions be encountered, the Contractor shall not be required to clean affected pipe sections. Immediately upon discovery of conditions that prevent cleaning or pose risk of damage, the Contractor shall notify the City of such conditions.
- iii. The Contractor's means and methods used to execute the Work shall ensure that waste material removed from the MS4 is conveyed securely to a watertight receptacle (e.g. vacuum truck debris tank) for hauling to the disposal facility and shall not permit waste material to be discharged outside of the MS4 or downstream within the MS4. Any waste material spilled or discharged during the cleaning process shall be completely removed from the discharge site immediately following the spill.
- iv. Contractor shall provide disposal of waste materials removed from the MS4 in accordance with applicable law and regulations. Applicable regulations include, but are not limited to, the Western Washington Phase II Municipal Stormwater Permit administered by the WA Department of Ecology. The City calls Contractors' attention to the fact that this regulation prohibits the practice of decanting collected liquid waste material back into the City's MS4.

C. Contract Task Specifications

The Contract Tasks (CT) described in this section correspond to the Contract Tasks noted in the Proposal Form in the Invitation to Bid. Specifications for execution, measurement, and payment of Work are as follows:

CT-1 – Clean Catch Basin

i. Description

- This work includes mobilizing to work sites, removing waste material from catch basins, and hauling and disposing of collected wastes.
 - One of the catch basins subject to the work of CT-1 closely matches the specifications of a King County standard “Type 2” catch basin¹. All other catch basins subject to the work of CT-1 closely match the specifications of a King County standard “Type 1” catch basin.
 - The locations of catch basins to be cleaned per this Contract Task are shown as “Sump_Full_Only” and “Sump_and_Pipe_Full” structures on the GIS map referenced in Section A of this Attachment.
 - Waste material includes liquid, sediment, grit, trash, debris, vegetation, or other material that may have accumulated in the catch basin interior.

ii. Execution

- Remove catch basin grate and temporarily store grate in a secure location. Uncovered catch basins shall not be left unattended for any length of time.
- Remove all waste material from catch basin interior such that drainage is unobstructed and only trace amounts of waste material may remain.
- Return the catch basin grate to a secure setting on the structure frame.
- Haul and provide legal disposal of waste material removed from each catch basin.

iii. Measurement and Payment

- CT-1 will be measured and paid per each catch basin cleaned.
- Contractor shall submit to the City an identifiable photograph of each catch basin illustrating completed cleaning work, which the City will use to measure the quantity of catch basins cleaned. An identifiable photo of a catch basin is an electronic image file that either contains GPS/other location information or is named per the catch basin structure ID shown on the City’s GIS map.
- Contractor shall submit to the City waste disposal receipts issued by a duly licensed facility showing the quantity of material disposed, or equivalent documentation, which the City will use to validate the measurement based on submitted photographs.

CT-2 – Clean Stormwater Pipe

i. Description

¹ King County standard figures, including Type 1 and Type 2 Catch Basins, can be accessed here: <https://kingcounty.gov/~media/depts/local-services/roads/2016-road-standards/2016-kcroadstands-figures.ashx?la=en>

- This work includes mobilizing to work sites, removing roots and waste material from existing stormwater pipes, and hauling and disposing of collected wastes. Waste material is defined in the CT-1 specification.
 - The locations and attributes of pipes subject to the work of CT-2 are shown as “Pipe_Full” and “Sump_and_Pipe_Full” structures on the GIS map referenced in Section A of this Attachment. The City understands all pipes subject to this work to be 12” diameter or smaller.
- ii. Execution
- Remove grate from the catch basin used to access the pipe (“cleaning access structure”) and temporarily store grate in a secure location. Uncovered catch basins shall not be left unattended for any length of time.
 - Remove all waste material from pipes that are more than 20% full of waste material as determined by Contractor’s observations at the cleaning access structure.
 - Remove waste material collected in the cleaning access structure to such an extent that drainage is unobstructed and only trace amounts of waste material may remain.
 - Return the catch basin grate to a secure setting on the structure frame.
 - Haul and provide legal disposal of waste material removed from the pipe(s).
- iii. Measurement and Payment
- CT-2 will be measured and paid per hour of pipe cleaning work undertaken at the work site (cleaning access structure).
 - Contractor shall maintain a log to track where pipe cleaning work has been completed which shall document the cleaning access structure ID number (from GIS map), size and material of the pipe(s) cleaned and the hours expended to complete the cleaning. The log will be submitted to the City with applicable requests for payment for CT-2 work.

CT-3 – Minor Changes

- i. Description
- Payments or credits for changes to the Work amounting to \$5,000 or less may be made under the Bid item “Minor Changes”. At the discretion of the City, this procedure for Minor Changes may be used in lieu of the more formal procedure as outlined in the executed Agreement.
 - If the City identifies a needed change to the Work, the City will provide the Contractor a copy of the completed order for Minor Changes (“CT-3 Work Order”). The agreement for the CT-3 Work Order will be documented by signature of the Contractor, or notation of verbal agreement.
- ii. Execution
- Requirements for execution of CT-3 work shall be established in the City’s CT-3 Work Order(s).
- iii. Measurement and Payment
- CT-3 work will be measured and paid by Lump Sum
 - The Contractor shall submit documentation of all labor, material, equipment, and other costs required to complete work described in CT-3 Work Orders.

Documentation shall be submitted with the Contractor's proposal for CT-3 Work Orders, or with the Contractor's request for payment of urgent CT-3 Work Orders that the City may have authorized to proceed on a time and material basis.

- For the purpose of providing a common Proposal for all Bidders, the City has entered an amount for "Minor Changes" in the Proposal Form to become a part of the total Price.

EXHIBIT B

PAYMENT

PROPOSAL FORM (continued)

For the complete performance of all Work required by Contract Documents for that project entitled "2023 Stormwater System Cleaning", the following Bid is submitted. Show prices in figures only (ink or typed). Show cents to 2 decimal points. Where conflict occurs between the unit price and the extended price specified for any item, the Unit Price shall prevail, and totals shall be corrected to conform thereto. If any Unit Price is left blank, it will be considered no charge for that Bid item/Contract Task, regardless of what has been placed in the Extended Price column. **Please note that this Work is tax exempt per WAC 458-20-171. Contractor is advised to be familiar with Washington State Revenue Rule 171 as no separate, distinct sales tax monies will be reimbursed to the Contractor.**

BID SCHEDULE					
		CONTRACTOR BID			
BID ITEM / CONTRACT TASK	DESCRIPTION	UNITS	UNIT PRICE	ESTIMATED QTY	EXTENDED PRICE (unit price x estimated qty)
CT-1	Clean Catch Basin	EA	\$85.00	1,050	\$89,250.00
CT-2	Clean Stormwater Pipe	HR	\$345.00	100	\$34,500.00
CT-3	Minor Changes	LS	\$5,000	1	\$5,000.00
TOTAL PRICE (sum of EXTENDED PRICE subtotals above)					\$128,750.00

KEY	
QTY	Quantity
EA	Each
HR	Hour
LS	Lump Sum