

Jon Hutchings
Director



James P. Karcher, P. E.
County Engineer
322 N. Commercial Street, Ste 301
Bellingham, WA 98225-4042
Phone: (360) 778-6210
Fax: (360) 778-6211

Memorandum

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive and the Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: James P. Karcher, P.E., County Engineer *JPK*
James E. Lee, P.E., Engineering Manager *JSL*

Date: May 25, 2022

Re: Lummi Island Dolphin Repair Project
Work Order No. 23528
Approval for Award of Construction Contract, Bid No. 22-28

Attached for your review and signature is the standard construction contract award package for the above-referenced project. This package includes the approval for contract award, bid tabulation and low bid proposal.

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to sign the Approval for Contract Award to American Construction Co., Inc. for the Lummi Island Dolphin Repair Project, Work Order No. 23528. Upon receipt of the signed Approval for Contract Award form, Public Works will submit the construction contract to the County Executive for contract execution.

Background and Purpose

Bid proposals for the project were opened at 2:30 p.m. on Tuesday, May 24, 2022. A total of two (2) responsive bids were received, with **American Construction Co., Inc.** being the lowest responsible bidder in the amount of \$327,429.00. The bid tabulation is attached to this memorandum.

Funding Amount and Source

This project is being funded by the ferry maintenance budget, cost center 444610. There is sufficient budget authority for this expenditure.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding this contract.

In accordance with W.C.C. 3.08.030, I concur with this recommendation:

Sara Winger
Digitally signed by Sara Winger
DN: cn=Sara Winger, o=Whatcom County AS
Finance, ou=Purchasing Coordinator,
email=swinger@co.whatcom.wa.us, c=US
Date: 2022.05.25 13:13:04 -07'00'

Sara Winger, Purchasing Coordinator

Date

Jon Hutchings
Director



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Lummi Island Dolphin Repair Project

Work Order No. 23528

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Lummi Island Dolphin Repair Project

To: American Construction Co., Inc.

In the amount of their bid proposal \$327,429.00 including all taxes.

Whatcom County Executive
Approving Authority

Date

Christopher Quinn Dyle

Christopher Quinn
Senior Civil Deputy Prosecuting Attorney

5.25.2022

Date

Lummi Island Dolphin Repair Project

WO No. 23528

Bid Opening May 24, 2022

Bid No. 22-28

BID PROPOSAL				Engineers Estimate		American Construction Co., Inc		Manson Construction Co.	
ITEM NO.	ITEM DESCRIPTION	UNIT MEAS.	APPROX. QTY	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
1	Mobilization	LS	1	\$ 80,000.00	\$ 80,000.00	\$ 5,000.00	\$ 5,000.00	\$ 59,000.00	\$ 59,000.00
2	SPCC Plan	LS	1	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00	\$ 18,000.00	\$ 18,000.00
3	Protected Species Monitoring	LS	1	\$ 15,600.00	\$ 15,600.00	\$ 5,000.00	\$ 5,000.00	\$ 10,500.00	\$ 10,500.00
4	Eelgrass & Macroalgae Protection	LS	1	\$ 8,500.00	\$ 8,500.00	\$ 6,000.00	\$ 6,000.00	\$ 12,000.00	\$ 12,000.00
5	Furnish & Driving 12" Diameter Steel Piles	LF	420	\$ 101.00	\$ 42,420.00	\$ 150.00	\$ 63,000.00	\$ 175.00	\$ 73,500.00
6	Furnish and Install Timber Pile Stubs	LF	140	\$ 320.00	\$ 44,800.00	\$ 350.00	\$ 49,000.00	\$ 400.00	\$ 56,000.00
7	Pipe Pile Joints	EA	7	\$ 432.00	\$ 3,024.00	\$ 2,500.00	\$ 17,500.00	\$ 3,000.00	\$ 21,000.00
8	Furnish & Install Conical HDPE Pile Covers	EA	8	\$ 486.00	\$ 3,888.00	\$ 1,000.00	\$ 8,000.00	\$ 500.00	\$ 4,000.00
9	Furnish & Install Wire Rope Wraps	LS	1	\$ 27,938.00	\$ 27,938.00	\$ 64,000.00	\$ 64,000.00	\$ 25,000.00	\$ 25,000.00
10	Furnish & Install Rub Strips	EA	6	\$ 3,500.00	\$ 21,000.00	\$ 9,500.00	\$ 57,000.00	\$ 15,000.00	\$ 90,000.00
11	Unanticipated Site Work (<i>Force Account</i>)	EST	1	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
				Subtotal=	\$ 277,170.00		\$ 301,500.00		\$ 394,000.00
				WA State Sales Tax @ 8.6%=	\$ 23,836.62		\$ 25,929.00		\$ 33,884.00
				TOTAL BID AMOUNT (Bid Items 1-11)=	\$ 301,006.62		\$ 327,429.00		\$ 427,884.00

* Note: Amounts in **bold and italic** represent a correction to the contractor's submitted bid.

I hereby certify that the amounts tabulated herein are correct and accurately represent the amounts contained in the Engineer's estimate and the respective bid proposals opened at 2:30 P.M., May 24, 2022 for the Lummi Island Dolphin Repair Project, Work Order No. 23528.

James P. Karcher 5-25-2022
 James P Karcher, P.E. Date
 County Engineer

On this day personally appeared before me, James P Karcher, P.E., known to me to be the County Engineer and the person described herein and who executed the within and foregoing instrument on this 25th day of May, 2022



Lonni Cummings
 NOTARY PUBLIC
 Residing At Bellingham
 My Commission Expires: 6-21-2025

BID PROPOSAL FOR

LUMMI ISLAND DOLPHIN REPAIR PROJECT

WORK ORDER NO. 23528

DATE: Tuesday, May 24, 2022

TO: Whatcom County Executive and Council
Whatcom County Courthouse
311 Grand Avenue
Bellingham, Washington 98225

Gentlepersons:

This certifies that the Undersigned: has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "**Lummi Island Dolphin Repair Project, Work Order No. 23528**" Whatcom County, Washington, including the "Bid Procedures and Conditions," "Specifications and Conditions," "Contract Forms," "Construction Plans," and "Appendices," governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum and unit prices as set forth in the "Bid" below.

The Undersigned acknowledges that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price, and that the basis for payment will be the actual work performed and measured or provided for in accordance with the said contract documents.

The Undersigned certifies that it is not currently disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).

**LUMMI ISLAND DOLPHN REPAIR PROJECT
WORK ORDER NO. 23528**

American Construction Co., Inc.
Bidder _____

ITEM NO.	UNIT MEASURE	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT PRICE IN FIGURES	EXTENDED PRICE IN FIGURES
1	LUMP SUM	MOBILIZATION	1	\$ <u>5,000.00</u>	\$ <u>5,000.00</u> ✓
2	LUMP SUM	SPCC PLAN	1	\$ <u>2,000.00</u>	\$ <u>2,000.00</u> ✓
3	LUMP SUM	PROTECTED SPECIES MONITORING	1	\$ <u>5,000.00</u>	\$ <u>5,000.00</u> ✓
4	LUMP SUM	EELGRASS AND MACROALGAE PROTECTION	1	\$ <u>6,000.00</u>	\$ <u>6,000.00</u> ✓
5	LINEAR FOOT	FURNISH & DRIVING 12" DIAMETER STEEL PILES	420	\$ <u>150.00</u>	\$ <u>63,000.00</u> ✓
6	LINEAR FOOT	FURNISH AND INSTALL TIMBER PILE STUBS	140	\$ <u>350.00</u>	\$ <u>49,000.00</u> ✓
7	EACH	PIPE PILE JOINTS	7	\$ <u>2,500.00</u>	\$ <u>17,500.00</u> ✓
8	EACH	FURNISH AND INSTALL CONICAL HDPE PILE COVERS	8	\$ <u>1,000.00</u>	\$ 1,000.00 <u>\$8,000.00</u> ✓
9	LUMP SUM	FURNISH AND INSTALL WIRE ROPE WRAPS	1	\$ <u>64,000.00</u>	\$ <u>64,000.00</u> ✓
10	EACH	FURNISH AND INSTALL RUB STRIPS	6	\$ <u>9,500.00</u>	\$ <u>57,000.00</u> ✓
11	DOLLAR	UNANTICIPATED SITE WORK	EST	EST	\$25,000 ✓
				Subtotal:	\$ <u>301,500.00</u> ✓ \$274,500.00
				Sales Tax (8.6%)	\$ <u>25,929.00</u> ✓ \$25,327.00
				TOTAL BID AMOUNT (Bid Items 1-11)	\$ <u>327,429.00</u> ✓ \$319,827.00

mj 05/25/22

**BID CERTIFICATION OF COMPLIANCE WITH
WAGE PAYMENT STATUTES**

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (May 11, 2022), the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

American Construction Co., Inc.
Bidder's Business Name


Signature of Authorized Official*

Kevin Culbert
Printed Name

President
Title

May 24, 2022
Date

Tacoma
City

WA
State

Check One:

Sole Proprietorship Partnership Joint Venture Corporation

State of Incorporation, or if not a corporation, State where business entity was formed:

Washington

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*



Proposal for Incorporating Recycled Materials into the Project

In compliance with a new law that went into effect January 1, 2016 (SHB1695), the Bidder shall propose below, the total percent of construction aggregate and concrete materials to be incorporated into the Project that are recycled materials. Calculated percentages must be within the amounts allowed in Section 9-03.21(1)E, Table on Maximum Allowable Percent (By Weight) of Recycled Material, of the Standard Specifications.

Proposed total percentage: 0 percent.

Note: Use of recycled materials is highly encouraged within the limits shown above, but does not constitute a Bidder Preference, and will not affect the determination of award, unless two or more lowest responsive Bid totals are exactly equal, in which case proposed recycling percentages will be used as a tie-breaker, per the APWA GSP in Section 1-03.1 of the Special Provisions. Regardless, the Bidder's stated proposed percentages will become a goal the Contractor should do its best to accomplish. Bidders will be required to report on recycled materials actually incorporated into the Project, in accordance with the APWA GSP in Section 1-06.6 of the Special Provisions.

Bidder: American Construction Co., inc.

Signature of Authorized Official: 

Date: May 24, 2022

NON-COLLUSION DECLARATION

LUMMI ISLAND DOLPHIN REPAIR PROJECT

WORK ORDER NO. 23528

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: American Construction Co., Inc.

Address: 1501 Taylor Way

Tacoma, WA 98421

Telephone: (253) 254-0118

Contractor's WA Registration Number: AMERIC*372N0

Contractor's WA UBI Number: 313007761

Contractor's WA Employment Security Department Number: 139133-00-6

Contractor's WA Excise Tax Registration Number: C 313007761

The Firm submitting this proposal is a:

Sole Proprietorship
 Partnership
 Corporation

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Kevin Culbert President
Name (printed) Title

Name (printed) Title

Name (printed) Title

Name (printed) Title

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.

BID PROPOSAL SIGNATURE AND ADDENDUM ACKNOWLEDGMENT

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. The undersigned hereby agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages as specified in the Specifications and Conditions for this project.

- CASH IN THE AMOUNT OF _____
- CERTIFIED CHECK _____ DOLLARS
- CASHIER'S CHECK (\$ _____) PAYABLE TO WHATCOM COUNTY
- PROPOSAL BOND IN THE AMOUNT OF 5% OF THE BID.

Receipt is hereby acknowledged by addendum(s) No.(s) 1, _____, & _____

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(PROPOSAL MUST BE SIGNED) _____
Kevin Culbert

 Kevin Culbert, President _____ (Seal)
 FIRM NAME: American Construction Co., Inc.

STATE OF WASHINGTON)
) ss.
 COUNTY OF WHATCOM)

On this 24th day of May, 2022, before me personally appeared
Kevin Culbert to me personally known to be the person described in
 and who executed the above instrument and who acknowledged to me the act of signing thereof.



Danny K. Dickey
 NOTARY PUBLIC, in and for the State of
 Washington, residing at: Seattle
 My Commission Expires: 07/06/2025

This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the County will be cause for considering the proposal irregular and for subsequent rejection of the bid.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we American Construction Co., Inc., of Tacoma, WA, as principal, and the Liberty Mutual Insurance Company a corporation duly organized under the laws of the State of Massachusetts and having its principal place of business at 1001 4th Avenue, Suite 3700, Seattle in the State of

Washington, as Surety, are held and firmly bound unto Whatcom County in the full and penal sum of five percent (5%) of the total bid amount appearing on the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith submitting his or its bid proposal for LUMMI ISLAND DOLPHIN REPAIR PROJECT. WORK ORDER NO. 23528 bid proposal, by reference thereto, being hereby made a part hereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be accepted, and the contract be awarded to said PRINCIPAL, and if said PRINCIPAL shall duly make and enter into and execute said contract and shall furnish the performance bond as required by the bidding and contract documents within a period of ten (10) days from and after said award, exclusive of the day of such award, then its obligation to pay the above-mentioned penal sum as liquidated damages shall be null and void, otherwise it shall remain and be in full force and effect.

SIGNED AND SEALED this 24th day of May, 2022

American Construction Co., Inc.

Principal

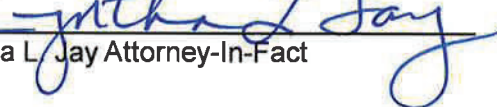
By 

Kevin Culbert, President

(Seal)

Liberty Mutual Insurance Company

Surety

By 

Cynthia L. Jay Attorney-In-Fact

The Attorney-in-fact who executes this bond on behalf of the surety company, must attach a copy of his power-of attorney as evidence of his authority.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8207353-023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner; Alyssa J. Lopez; Amber Lynn Reese; Amelia G. Burrill; Annelies M. Richie; Brandon K. Bush; Brent E. Heilesen; Carley Espiritu; Christopher Kinyon; Cynthia L. Jay; Dana Marie Brinkley; Diane M. Harding; Donald Shanklin, Jr.; Eric A. Zimmerman; Erica E. Mosley; Holli Albers; Jacob T. Haddock; James B. Binder; Jamie L. Marques; Julie R. Truitt; Justin Dean Price; Kari Michelle Motley; Katharine J. Snider; Lindsey Elaine Jorgensen; Lois F. Weathers; Michael Mansfield; Misti M. Webb; Sara Sophie Sellin; Tamara A. Ringeisen all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 17th day of February, 2022.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 17th day of February, 2022 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 24th day of May, 2022.



By: Renee C. Llewellyn, Assistant Secretary