

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30				1. REQUISITION NUMBER W68MD9-4237-9721		PAGE 1 OF 9	
2. CONTRACT NO. W912DW-04-P-0381		3. AWARD/EFFECTIVE DATE 08-Sep-2004		4. ORDER NUMBER		5. SOLICITATION NUMBER W912DW-04-Q-0163	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME SCOTT W BRITT		b. TELEPHONE NUMBER (No Collect Calls) 206-764-3517		8. OFFER DUE DATE/LOCAL TIME 10:00 AM 02 Sep 2004	
9. ISSUED BY USA ENGINEER DISTRICT, SEATTLE ATTN: CENWS-CT 4735 EAST MARGINAL WAY SOUTH SEATTLE WA 98134-2329  TEL: 206-764-3772 FAX: 206-764-6817		CODE W912DW		10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A)  NAICS: 212319 SIZE STANDARD:500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE  13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)  13b. RATING	
15. DELIVER TO SUPPLY & FACILITIES MGMT BR. 4735 E. MARGINAL WAY S. SEATTLE WA 98134-2385		CODE G370F00		16. ADMINISTERED BY  <b>SEE ITEM 9</b>			
17a. CONTRACTOR/OFFEROR THOMCO CONSTRUCTION INC KEVIN WYETH 13700 44TH ST NE LAKE STEVENS WA 98258-9714  TEL. 425 377-9130		CODE 30RS6  FACILITY CODE		18a. PAYMENT WILL BE MADE BY US ARMY CORPS OF ENGRS FINANCE CENTER CEFC-AO-P 901-874-8556 5722 INTEGRITY DRIVE MILLINGTON TN 38054-5005			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM					
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/ SERVICES		21. QUANTITY		22. UNIT	23. UNIT PRICE
		SEE SCHEDULE					
25. ACCOUNTING AND APPROPRIATION DATA  See Schedule				26. TOTAL AWARD AMOUNT (For Govt. Use Only)  \$84,800.00			
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED							
<input checked="" type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED							
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: REFERENCE <input checked="" type="checkbox"/> OFFER DATED 02-Sep-2004 . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMSSEE SCHEDULE			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		31c. DATE SIGNED	
				Elaine M Ebert		08-Sep-2004	
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) ELAINE M EBERT / CONTRACTING OFFICER TEL: (206) 764-3638 EMAIL: elaine.m.ebert@usace.army.mil			

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS  
(CONTINUED)**

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
<p><b>SEE SCHEDULE</b></p>					

32a. QUANTITY IN COLUMN 21 HAS BEEN  
 RECEIVED  INSPECTED  ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY ( <i>Print</i> )		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT ( <i>Location</i> )	
		42c. DATE REC'D ( <i>YY/MM/DD</i> )	42d. TOTAL CONTAINERS

Section SF 1449 - CONTINUATION SHEET

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001		67,840	Lump Sum	\$1.00	\$67,840.00
	DELIVERED MATERIALS FOR UNION SLOUGH				
	FFP				
	PROVIDE PIT RUN WELL-GRADED SILTY OR CLAYEY SANDY GRAVEL WITH OCCASIONAL COBBLES UP TO 6" LOADED AND DELIVERED AND SUPPLY 6000 TONS OF 2" MINUS, CRUSHED, SHOT ROCK, DELIVERED IN ACCORDANCE WITH THE STATEMENT OF WORK.				

PIT RUN - LOADED AND DELIVERED:  
 \$4.24 PER TON X \*20,000 = \$84,800.00 TOTAL  
 \*APPROXIMATE QUANTITY - INVOICE GOVERNMENT ACCEPTED QUANTITY

SEND ALL INVOICES TO THE FOLLOWING ADDRESS FOR APPROVAL:  
 CENWS-OD-EM  
 PO BOX 3755  
 SEATTLE, WA 98124-3755  
 Partial payments authorized.  
 PURCHASE REQUEST NUMBER: W68MD9-4237-9721

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NET AMT \$67,840.00

ACRN AB Funded Amount \$67,840.00

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002		16,960	Lump Sum	\$1.00	\$16,960.00
	NONFED UNION SLOUGH DELIVERED MATERIALS				
	FFP				
	NONFED UNION SLOUGH DELIVERED MATERIALS - Funding purposes only - see Line Item No. 0001 for description.				
	PURCHASE REQUEST NUMBER: W68MD9-4237-9721				

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NET AMT \$16,960.00

ACRN AA Funded Amount \$16,960.00

FOB: Destination

## ACCOUNTING AND APPROPRIATION DATA

AA: 96X88620000 082433 3230D0LJ85161997 NA 96453  
 COST 000000000000  
 CODE:  
 AMOUNT: \$16,960.00

AB: 96X31220000 082433 3230D0LJ85161997 NA 96453  
 COST 000000000000  
 CODE:  
 AMOUNT: \$67,840.00

### STATEMENT OF WORK

#### 1. LOCATION:

The Union Slough construction site is northeast of the town of Everett and west of Snohomish, next to the sewage treatment plant and just under Interstate 5 on 4027 4<sup>th</sup> Street Southeast in Snohomish County, Washington.

#### 2. WORK REQUIREMENTS

##### 2.1 Supply 20,000 tons of pit run loaded and delivered.

Pit run specifications are that it is a **well graded**, "silty" or "clayey," sandy gravel with occasional cobbles of up to 6". Price of material is by the ton, loaded and delivered at a rate of 2,000 tons per day for a six-day workweek, Monday through Saturday. Either Truck and trailer or solo dump truck delivery is acceptable. Payment for material is for each delivered ton.

NOTE: Approval of material is a condition of award. The Government reserves the right to inspect material for quality prior to acceptance.

#### 3. COMMENCEMENT, PROSECUTION AND COMPLETION

Anticipation of the accomplishment of work is during a period beginning 7 September and ending 20 September 2004. Perform all work under the direction of Emergency Management Section.

## CLAUSES INCORPORATED BY REFERENCE

52.212-4	Contract Terms and Conditions--Commercial Items	OCT 2003
52.243-1	Changes--Fixed Price	AUG 1987
252.204-7004 Alt A	Required Central Contractor Registration Alternate A	NOV 2003
252.212-7001	Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items	JUN 2004

## CLAUSES INCORPORATED BY FULL TEXT

## 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JUN 2004)

(a) The Contractor shall comply with the following Federal **Acquisition Regulation** (FAR) clause, which is incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items: 52.233-3, Protest after Award (AUG 1996) (31 U.S.C. 3553).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (JUL 1995), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

\_\_\_ (2) 52.219-3, Notice of HUBZone Small Business Set-Aside (Jan 1999) (U.S.C. 657a).

\_\_\_ (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer) (U.S.C. 657a).

\_\_\_ (4) (i) 52.219-5, Very Small Business Set-Aside (JUNE 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).

\_\_\_ (ii) Alternate I (MAR 1999) to 52.219-5.

\_\_\_ (iii) Alternate II to (JUNE 2003) 52.219-5.

XX \_\_\_ (5)(i) 52.219-6, Notice of Total Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).

\_\_\_ (ii) Alternate I (OCT 1995) of 52.219-6.

\_\_\_ (iii) Alternate II (MAR 2004) of 52.219-6.

\_\_\_ (6)(i) 52.219-7, Notice of Partial Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).

\_\_\_ (ii) Alternate I (OCT 1995) of 52.219-7.

- \_\_\_ (iii) Alternate II (MAR 2004) of 52.219-7.
- \_\_\_ (7) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d)(2) and (3)).
- \_\_\_ (8)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2002) (15 U.S.C. 637(d)(4)).
- \_\_\_ (ii) Alternate I (OCT 2001) of 52.219-9
- \_\_\_ (iii) Alternate II (OCT 2001) of 52.219-9.
- \_\_\_ (9) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).
- \_\_\_ (10)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (JUNE 2003) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- \_\_\_ (ii) Alternate I (JUNE 2003) of 52.219-23.
- \_\_\_ (11) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (OCT 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- \_\_\_ (12) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- \_\_\_ (13) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).
- XX \_\_\_ (14) 52.222-3, Convict Labor (JUNE 2003) (E.O. 11755).
- XX \_\_\_ (15) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (Jun 2004) (E.O. 13126).
- XX \_\_\_ (16) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).
- XX \_\_\_ (17) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).
- XX \_\_\_ (18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).
- \_\_\_ (19) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- \_\_\_ (20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).
- \_\_\_ (21)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (AUG 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).
- \_\_\_ (ii) Alternate I (AUG 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- \_\_\_ (22) 52.225-1, Buy American Act--Supplies (JUNE 2003) (41 U.S.C. 10a-10d).
- \_\_\_ (23)(i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (JAN 2004) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78).

\_\_\_ (ii) Alternate I (JAN 2004) of 52.225-3.

\_\_\_ (iii) Alternate II (JAN 2004) of 52.225-3.

\_\_\_ (24) 52.225-5, Trade Agreements (Jun 2004) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

\_\_\_ (25) 52.225-13, Restrictions on Certain Foreign Purchases (OCT 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of Treasury).

\_\_\_ (26) 52.225-15, Sanctioned European Union Country End Products (FEB 2000) (E.O. 12849).

\_\_\_ (27) 52.225-16, Sanctioned European Union Country Services (FEB 2000) (E.O. 12849).

\_\_\_ (28) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

\_\_\_ (29) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

XX \_\_\_ (30) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).

\_\_\_ (31) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).

\_\_\_ (32) 52.232-36, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).

\_\_\_ (33) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

\_\_\_ (34)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631).

\_\_\_ (ii) Alternate I (APR 1984) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

\_\_\_ (1) 52.222-41, Service Contract Act of 1965, as Amended (MAY 1989) (41 U.S.C. 351, et seq.).

\_\_\_ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (February 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (May 1989) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (April 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (December 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-41, Service Contract Act of 1965, as Amended (May 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (April 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor May include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far>

<http://www.farsite.hill.af.mil>

<http://www.dtic.mil/dfars>

(End of clause)