


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 14, 2019

AGENDA ITEM:	
Stillaguamish WTP Safety Improvements	
PREPARED BY:	DIRECTOR APPROVAL: 
Jason Crain, Water Resources Supervisor	
DEPARTMENT:	
Public Works	
ATTACHMENTS:	
Bid Tab	
BUDGET CODE:	AMOUNT:
40141580.541000.1916	\$108,873.49
SUMMARY:	

The 2019-2020 budget included safety improvements at the Stillaguamish Water Treatment Plant to design, engineer, fabricate and install catwalks to provide safe access to elevated equipment and valves that require inspection and maintenance. This safety equipment will protect employees from the potential of fall hazards that could be experienced while working on elevated equipment, as required by OSHA fall protection regulations.

The project was advertised on August 15, 2019 on the MRSC to all applicable bidders with a bid close date of September 6, 2019. The City received two bids as shown on the attached bid tabulation. The apparent low bidder was considered non-responsive because they did not follow the bid specifications making Daco Corporation the new apparent low bidder at \$108,873.49.

RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign and execute the Small Public Works Contract with Daco Corporation for \$108,873.49.
RECOMMENDED MOTION: I move to authorize the Mayor to sign and execute a Small Public Works Contract between the City of Marysville and Daco Corporation in the amount of \$108,873.49.



**Stillaguamish WTP Safety Improvements
40141580.541000.1916
Certified Bid Tab**

9/6/2019

SPEC	ITEM	DESCRIPTION	QUANTITY	UNITS	Engineer's Estimate		Engineered Products		Daco Corporation	
					UNIT PRICES	TOTAL PRICE	UNIT PRICES	TOTAL PRICE	UNIT PRICES	TOTAL PRICE
		Elevated Work Platform system for Stilly Water Treatment Plant	1	LS			* \$50,799	* \$50,799	\$108,873.49	\$108,873.49

* Engineered Products bid is being considered a non-responsive bid since their bid did not follow the key specifications of the invitation to bid documents. The specifications called for the structure to be made with high-grade aluminum and Engineered Products bid it using steel. They also didn't include sales tax with their bid as specified in the bid documents.

SMALL PUBLIC WORKS CONTRACT

THIS SMALL PUBLIC WORKS CONTRACT (the “Contract”) is made and entered into as of the date of the last signature below, by and between the City of Marysville, a Washington State municipal corporation (the “City”), and Daco Corporation, a Corporation, organized under the laws of the state of Washington, located and doing business at 8825 S 184Th St, Kent, WA, 98031 (the “Contractor”).

WHEREAS, the City desires a modular and pre-fabricated work platform system (catwalk) for installation at the city’s Stillaguamish Filtration Plant; and

WHEREAS, the Contractor represents that it is qualified and possesses sufficient skills and the necessary capabilities to perform, carry out, and complete the project and submitted a bid, proposal, or quote to the City to carry out the project; and

WHEREAS, the Contractor and the City desire to enter into this Contract for completion of the project in accordance with the terms and conditions of this Contract;

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, the City and the Contractor agree as follows:

1. Scope of Work—the Project.

The Contractor shall perform, carry out, and complete the Stillaguamish Filtration Plant Elevated Work Platform System Project (the “Project”) more fully described in Exhibit A which is attached hereto and incorporated by this reference. Exhibit A may reference or include a description of the Project, the Contractor’s bid/proposal, plans, drawings, or technical specifications (collectively, with this Contract, the “Contract Documents”).

2. Term of Contract.

The term of this Contract shall commence upon full execution of this Contract by the City and the Contractor and shall terminate upon final payment by the City to the Contractor, unless sooner terminated by either party under Section 8 or another applicable provision of the Contract. The Project shall be completed no later than April 1, 2020.

3. Commencement of Work.

The Contractor shall not commence any work under this Contract until the City issues a Notice to Proceed. The City will not issue a Notice to Proceed until the Contractor satisfies the following conditions:

- a. The Contract has been signed and fully executed by the parties.
- b. The Contractor has provided the City with satisfactory documentation that the Contractor is licensed and bonded as a contractor in the State of Washington.
- c. The Contractor has obtained a City of Marysville Business License and a State of Washington Unified Business Identifier number.

- d. The Contractor has provided the City with satisfactory documentation that it has industrial insurance coverage as required by Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW.
- e. The Contractor has provided the City with satisfactory documentation that it is not disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
- f. The Contractor has provided the City with all certificates of insurance required under Section 13.

The Contractor must satisfy the proceeding conditions within fourteen (14) calendar days of the City providing the Contractor notice of the award of the Contract. The Contractor shall commence work on the Project within seven (7) calendar days of the City issuing the Notice to Proceed.

4. Payment for Project.

- a. Total Contract Sum for the Project. The City shall pay the Contractor, for satisfactory completion of the Project, a Total Contract Sum not to exceed One Hundred and Eight Thousand, Eight Hundred Seventy-Three Dollars and 49/100 Cents. (\$108,873.49) including all applicable Washington State Sales Tax. The Total Contract Sum includes all expenses and costs incurred in planning, designing, and constructing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, permits, subcontractors, consultants, and professional services necessary to construct and complete the Project in conformance with the Contract Documents.
- b. Statement of Intent to Pay Prevailing Wages. The City will not make any payment to the Contractor prior to receiving a copy of Contractor's Intent to Pay Prevailing Wages (or a Combined Intent/Affidavit if approved by the City).
- c. Payments. The City will only pay the Contractor for satisfactorily completed work on the Project within the scope of the Contract Documents. Progress payments shall be based on the timely submittal by the Contractor of an invoice in a form acceptable to the City. The form shall be appropriately completed and signed by the Contractor. Invoices not signed and/or completed shall be considered incomplete and ineligible for payment consideration. The City shall initiate authorization for payment after receipt of a satisfactorily completed invoice form and shall make payment to the Contractor within approximately thirty (30) calendar days thereafter. Progress payments shall be subject to retainage in accordance with subsection 7(b) below.
- d. Withholding for Defective or Unauthorized Work. The City reserves the right to withhold payment from the Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of the Contract Documents; and extra work and materials furnished without the City's written approval. If, during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract Documents, the Contractor shall correct or modify the work

to comply with the requirements of the Contract Documents. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract Documents. The City's decision not to, or failure to, withhold payment shall not constitute a waiver of the City's right to final inspection and acceptance of the Project.

e. Final Acceptance. Final Acceptance of the Project is determined when the Project is accepted by the Public Works Director or designee as being one hundred percent (100%) complete.

f. Final Payment: Waiver of Claims. The Contractor must request all changes and equitable adjustments, as provided for in Section 6, prior to seeking final payment. The Contractor's acceptance of final payment shall constitute a waiver of the Contractor's claims, except those previously and properly made and identified by the Contractor as unsettled at the time final payment is made and accepted.

g. Maintenance and Inspection of Financial Records. The Contractor shall maintain reasonable books, accounts, records, documents, and other evidence pertaining to the costs and expenses incurred and the consideration paid under this Contract, in accordance with reasonable and customary accepted accounting practices. All such records and accounts shall be subject to inspection and audit by representatives of City and the Washington State Auditor at all reasonable times and the Contractor shall provide the City copies upon request. The Contractor shall preserve and make available all such records and accounts for a period of three (3) years after final payment under this Contract.

5. Time is of the Essence/Liquidated Damages.

Time is of the essence in the performance of this Contract. The Contractor shall diligently pursue the Project work to physical completion by the date specified in Section 2. If said work is not completed within the time specified, the City will suffer harm, and the Contractor agrees to pay the City, as liquidated damages and for each and every calendar day said work remains uncompleted after expiration of the specified time, the sum set forth in Section 1-08.9 of the 2016 WSDOT Standard Specifications for Road, Bridge, and Municipal Construction, published by the Washington State Department of Transportation and incorporated herein by this reference. This amount shall be fixed as liquidated damages that the City will suffer by reason of such delay and not as a penalty. The City will have the right to deduct and retain the amount of liquidated damages from any amounts due or to become due to the Contractor. The Contractor shall not be liable for liquidated damages if the delay was due to causes not reasonably foreseeable to the parties at the time of contracting or causes that are entirely beyond the control and without the fault or negligence of the Contractor.

6. Changes.

The City may issue a written change order for any change in the work specified in the Contract Documents during the performance of the Contract. If the Contractor determines, for any reason, that a change order is necessary, the Contractor must submit a written change order request to the City's Contract Representative within fourteen (14) calendar days of the date the Contractor

knew or should have known of the facts and events giving rise to the requested change. If the Contractor fails to request a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the Project.

If the City determines that the change order increases or decreases the Contractor's costs or time for completion, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order.

The Contractor accepts all requirements of a change order by (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting it within five (5) business days. A change order that is accepted by the Contractor as provided in this section shall constitute full payment and final settlement of all claims for direct, indirect, and consequential costs, including costs of delays related to any work, either covered or affected by the change.

7. Bonding and Retainage.

a. Payment and Performance Bond. Pursuant to Chapter 39.08 RCW, the Contractor shall provide the City a payment and performance bond for the Total Contract Sum to be in effect until the later of: sixty (60) days after the date of Final Acceptance, receipt of all necessary releases from applicable state agencies, or until settlement of any liens filed under Chapter 60.28 RCW.

b. Retainage. The City shall withhold retainage in the amount of five percent (5%) of any and all payments made to the Contractor until the later of: sixty (60) days after the date of Final Acceptance, receipt of all necessary releases from applicable state agencies, or until settlement of any liens filed under Chapter 60.28 RCW. The amount retained shall be placed in a fund by the City pursuant to RCW 60.28.011(4)(a), unless otherwise instructed by the Contractor within fourteen (14) calendar days of Contractor's execution of this Contract.

8. Termination of Contract.

a. Termination. The City may terminate this Contract and take possession of the premises and all materials thereon and finish the Project by whatever methods it may deem expedient, by giving ten (10) business days written notice to the Contractor, upon the occurrence of any one or more of the following: (1) The Contractor makes a general assignment for the benefit of its creditors, has a receiver appointed as a result of insolvency, or files for bankruptcy; (2) The Contractor persistently or repeatedly refuses or fails to complete the work herein necessary to complete the Project; (3) The Contractor fails to make prompt payment to a subcontractor for material or labor; (4) The Contractor persistently disregards instructions of the City's Contract Representative or otherwise substantially violates the terms of this Contract; or (5) The Contractor persistently disregards federal, state, or local laws, ordinances, regulations, or codes.

b. Payment in the Event of Termination. In the event this Contract is terminated by either party, the Contractor shall not be entitled to receive any further amounts due under this

Contract until the work specified in the Contract Documents is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under this Contract exceeds the expense incurred by the City in finishing the Project and all damages sustained by the City or which may be sustained by reason of such refusal, neglect, failure, or discontinuance of performance, such excess shall be paid by the City to the Contractor. Such expense and damages shall include all reasonable legal expenses and costs incurred by the City to protect the rights and interests of the City under the Contract.

9. Contractor's Status as Independent Contractor.

The Contractor is a licensed, bonded, and insured contractor as required and in accordance with the laws of the State of Washington. The Contractor is acting as an independent contractor and has the ability to control and direct the performance and details of its work in the performance of each and every part of this Contract. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership, or agency between the Contractor and the City. No officer, employee, volunteer, agents, contractors, or subcontractors of the Contractor shall act on behalf of or represent him or herself as an agent or representative of the City. The Contractor and its officers, employees, volunteers, agents, contractors, and subcontractors shall not make a claim of City employment and shall not make a claim against the City for any employment related benefits, social security, and/or retirement benefits. The Contractor shall be solely responsible for compensating its officers, employees, volunteers, agents, contractors, and subcontractors and for paying all related taxes, deductions, and assessments, including, but not limited to, applicable use and sales taxes, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Contract.

10. Prevailing Wages.

This Contract is subject to the requirement of Chapter 39.12 RCW and no worker, laborer, or mechanic employed in the performance of any part of this Contract shall be paid less than the prevailing rate of wage as determined by the Industrial Statistician of the Department of Labor and Industries for the State of Washington. The Contractor shall assure that it and any subcontractors fully comply with the requirements of Chapter 39.12 RCW, Chapter 49.28 RCW, and any further laws or regulations applicable because of federal funding.

The State of Washington prevailing wage rates for Snohomish County apply to work performed under this Contract. The applicable prevailing wage rates may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

A copy of the applicable prevailing wage rates are available for viewing at the City and upon request, the City will mail a hard copy of the applicable prevailing wages.

11. Contractor's Risk of Loss.

The Contractor understands that the whole of the work under this Contract is to be done at the Contractor's risk. The Contractor is familiar with all existing conditions and other

contingencies likely to affect the work on the Project, and has made its proposal, bid, or quote accordingly. The Contractor assumes the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion of the Project.

12. Indemnification and Hold Harmless.

a. The Contractor 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 Contract, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this Contract 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 Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

c. The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW, as provided in RCW 4.24.115. The indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided the Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by the City and does not include, or extend to, any claims by the Contractor's employees directly against Contractor. The obligations of the Contractor under this subsection have been mutually negotiated by the parties hereto, and the Contractor acknowledges that the City would not enter into this Contract without the waiver thereof of Contractor.

_____ (City Initials) _____ (Contractor Initials)

d. The provisions of this Section shall survive the expiration or termination of this Contract.

13. Insurance.

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

b. No Limitation. The Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor 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 Contractor's required insurance shall be of the types and coverage as stated below:

- i. 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.
- ii. 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, stop gap liability, independent contractors, products-completed operations, 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 equivalent endorsement. 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 Contractor'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.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Minimum Amounts of Insurance.

The Contractor shall maintain the following insurance limits:

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

e. City Full Availability of Contractor Limits. If the Contractor 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 Contractor, irrespective of whether such limits maintained by the Contractor 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 Contractor.

f. Other Insurance Provision. The Contractor'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 excess of the Contractor's insurance and shall not contribute with it.

g. Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers, contractors, or subcontractors as well as to any temporary structures, scaffolding, and protective fences.

h. Waiver of Subrogation. The Contractor and the City waive all rights against each other, any of their subcontractors, sub-subcontractors, agents, and employees, each of the other, for damages caused by fire or other perils to the extent covered by other property insurance obtained pursuant to this Section or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

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

j. Verification of Coverage. The Contractor 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 Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Contract and evidence of all subcontractors' coverage.

k. Subcontractors. The Contractor shall cause each and every subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by subcontractors. The Contractor shall ensure that the City is an additional insured on each and every subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

l. Notice of Cancellation. The Contractor shall provide the City and all additional insureds for this work with written notice of any policy cancellation within two business days of its receipt of such notice.

m. Failure to Maintain Insurance. Failure on the part of the Contractor to maintain the required insurance shall constitute a material breach of the Contract, upon which the City may, after giving five (5) business days' notice to the Contractor 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 Contractor from the City.

14. Additional Responsibilities of the Contractor.

a. Permits. The Contractor will apply for, pay for, and obtain any and all City, county, state, or federal permits necessary to commence, construct, and complete the Project. All required permits and associated costs shall be included in the Total Contract Sum for the Project.

b. Work Ethic. The Contractor shall perform all work and services under and pursuant to this Contract in timely, professional, and workmanlike manner.

c. Safety. The Contractor shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of federal, state, and local laws, ordinances, regulations, and codes. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against known and unusual hazards. The Contractor shall ensure that all trenches are provided with adequate safety systems as required by RCW Chapter 49.17 and WAC 296-155-650 and -655. The Contractor is responsible for providing the competent person and registered professional engineer required by WAC 296-155-650 and -655.

d. Warranty and Correction of Defects. The Contractor guarantees and warrants all its work, materials, and equipment provided and utilized for the Project to be free from defects, damage, or failure which the City may, in its sole discretion, determine is the responsibility of the Contractor, for a period of one (1) year from the date of Final Acceptance of the Project. The Contractor is liable for any costs, losses, expenses, additional damages including consequential damages suffered by the City resulting from defects in, damage, or failure of the Contractor's work, materials, or equipment including, but not limited to, cost of materials and labor expended by the City in making repairs and the cost of engineering, inspection, and supervision by the City.

i. The Contractor is responsible for correcting all defects in workmanship, materials, or equipment discovered within one (1) year after Final Acceptance.

ii. Within seven (7) calendar days of receiving notice of a defect, the Contractor shall start work to correct such defects and shall complete the work within a reasonable time. After performing corrections, the Contractor is responsible for defects in workmanship, materials, and equipment for one (1) year after the City's acceptance of those corrections.

iii. If damage may result from delay or where loss of service may result, the City may choose to complete such corrections by contract or any other means, in which case the costs associated with correcting the defects and any damages resulting from the defects shall be borne by the Contractor.

iv. If the Contractor fails to correct a defect after receiving notice of the defect from the City or fails to bear the costs associated with correcting a defect, the Contractor will thereafter be considered non-responsible with regards to all City projects for one (1) year following the notice of the defect.

e. Compliance with Laws. The Contractor shall perform all work and services under and pursuant to this Contract in full compliance with any and all federal, state, or local laws,

ordinances, regulations, or codes. The Contractor shall obtain a City of Marysville Business License prior to commencement of work under this Contract.

f. Nondiscrimination. The Contractor agrees not to discriminate against any employee or applicant for employment or any other persons in the performance of this Contract because of race, religion, creed, color, national origin, marital status, sex, sexual orientation, gender identity, age, disability, or other circumstances as may be defined by federal, state, or local law, ordinance, or regulation except for a bona fide occupational qualification.

15. City Ownership of Work Products.

All work products (reports, maps, designs, specifications, etc.) prepared by or at the request of the Contractor regarding the planning, design, and construction of the Project shall be the property of the City. The Contractor shall provide the City with paper and electronic copies of all work products in possession or control of Contractor at the time the Contractor requests final payment from or upon written request from the City.

16. Assignment and Subcontractors.

a. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.

b. The Contractor shall not subcontract any part of the work to be performed under this Contract without first obtaining the consent of the City and complying with the provisions of this Section.

c. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract Documents.

d. The Contractor shall, before commencing any work, notify the City in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the City may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the City by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the City shall not constitute a waiver of any right of the City to reject defective work or work not in conformance with the Contract Documents. If the City, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.

e. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

f. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the City and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the City to pay or to assure payment of any monies due any subcontractor or assignee.

17. Notices and Contract Representatives.

All notices under this Contract shall be sent by registered or certified mail, postage prepaid, or hand-delivered to the addresses for each Contract Representative listed below. When hand delivered, notices are deemed effective on the date of receipt. When mailed, notices are deemed effective three (3) business days after deposit in the U.S. mail.

This Contract shall be administered for the City by the City's Contract Representative, Jason Crain, and shall be administered for the Contractor by the Contractor's Contract Representative, [Name of Contractor Representative]. The parties may designate different Contract Representatives by sending written notice to the other party.

To the City: Jason Crain, Water Resources Supervisor
City of Marysville
80 Columbia Avenue
Marysville, WA 98270

To Contractor: Steve Duffield
Daco Corporation
8825 S 184th ST
Kent, WA, 98031

18. Conflict and Severability.

If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining parts, terms, or provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular part, term, or provision held to be invalid.

If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

19. Integration, Supersession, and Modification.

This Contract, together with the Contract Documents, exhibits, and attachments represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended, modified, or added to only by a written amendment properly executed by both parties.

20. Non-Waiver.

A waiver by either party of a breach by the other party of any covenant or condition of this Contract shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Contract, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

21. Survival.

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

22. Third Parties.

The City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

23. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

24. Venue.

The venue for any action to enforce or interpret this Contract shall lie in the Superior Court of Washington for Snohomish County, Washington.

25. Attorney Fees.

Should either the City or the Contractor commence any legal action relating to the provisions of this Contract or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses, and reasonable attorney fees.

26. Authority to Bind Parties and Enter into Contract.

The undersigned represent that they have full authority to enter into this Contract and to bind the parties for and on behalf of the legal entities set forth herein.

27. Counterparts.

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Contract.

DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

By: _____
Jon Nehring, Mayor

DATED this _____ day of _____, 20_____.

DACO CORPORATION

By: _____
Steve Duffield
Its: Owner

Attested/Authenticated:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

ATTACHMENTS:

- Proposal of Contractor
- Technical Specifications

Exhibit A
Scope of Work and Contract Documents.

Brief Description of the Work/Project:

Incorporated Contract Documents:

[Project Manager is to modify as appropriate]

The following are incorporated by reference and the Project shall be completed in conformance therewith:

1. Notice to Bidders
2. Instruction to Bidders and any Addenda
3. 2016 Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction as modified by all amendments thereto as of the date of the Contractor's bid
4. General Special Provisions
5. Plans, Drawings, and Project Specifications
6. Contractor's Proposal/Bid Form
7. City of Marysville Engineering Design & Development Standards
8. All provisions required by law whether set forth and reproduced herein or not

The Contract Documents are complementary, but specific federal and state requirements and the terms of the Contract supersede other inconsistent provisions.



ELEVATED PLATFORM SYSTEM FOR STILLAGUAMISH FILTRATION PLANT

Prepared for:



Revised on August 27th, 2019 by:

Kyle Westen
Project Manager
DACO CORPORATION
Kylew@DACOCORP.com
425.264.4829 | 360.855.5433



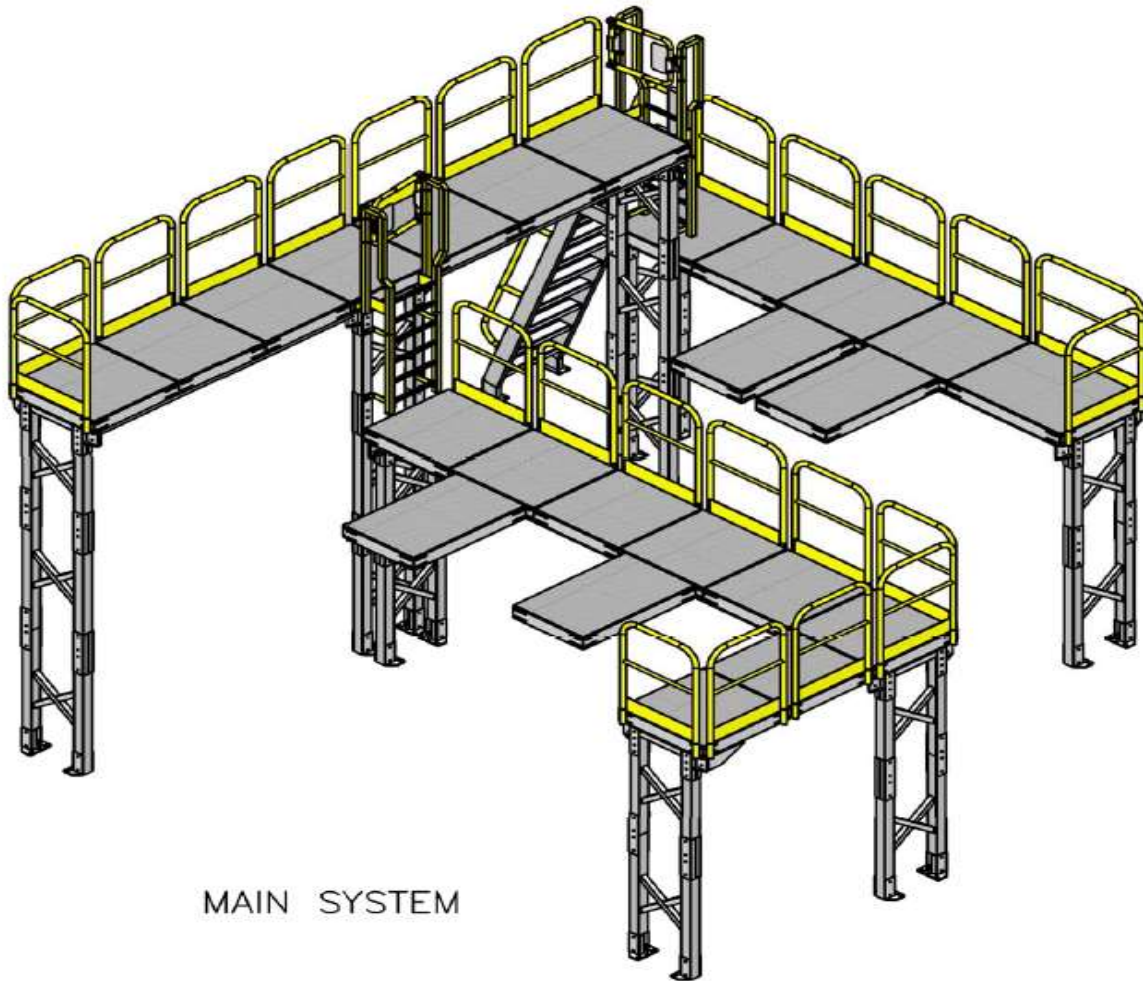
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SCOPE OF PROPOSAL

The scope of this proposal is to manufacture a catwalk system utilizing ErectaStep platforms for the city of marysville Water plant. As shown below this proposal includes the following "main system" this setup will create multi level access that will form around the water pipes onsite, allowing access to replace the various pumps located at the end of the platforms. This proposal includes materials, permitting, inspections, installation and freight.



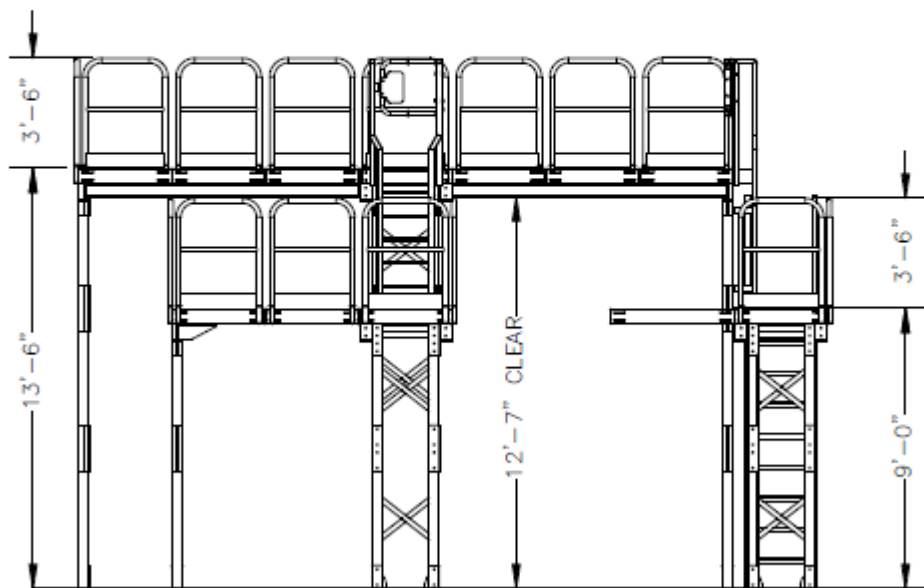
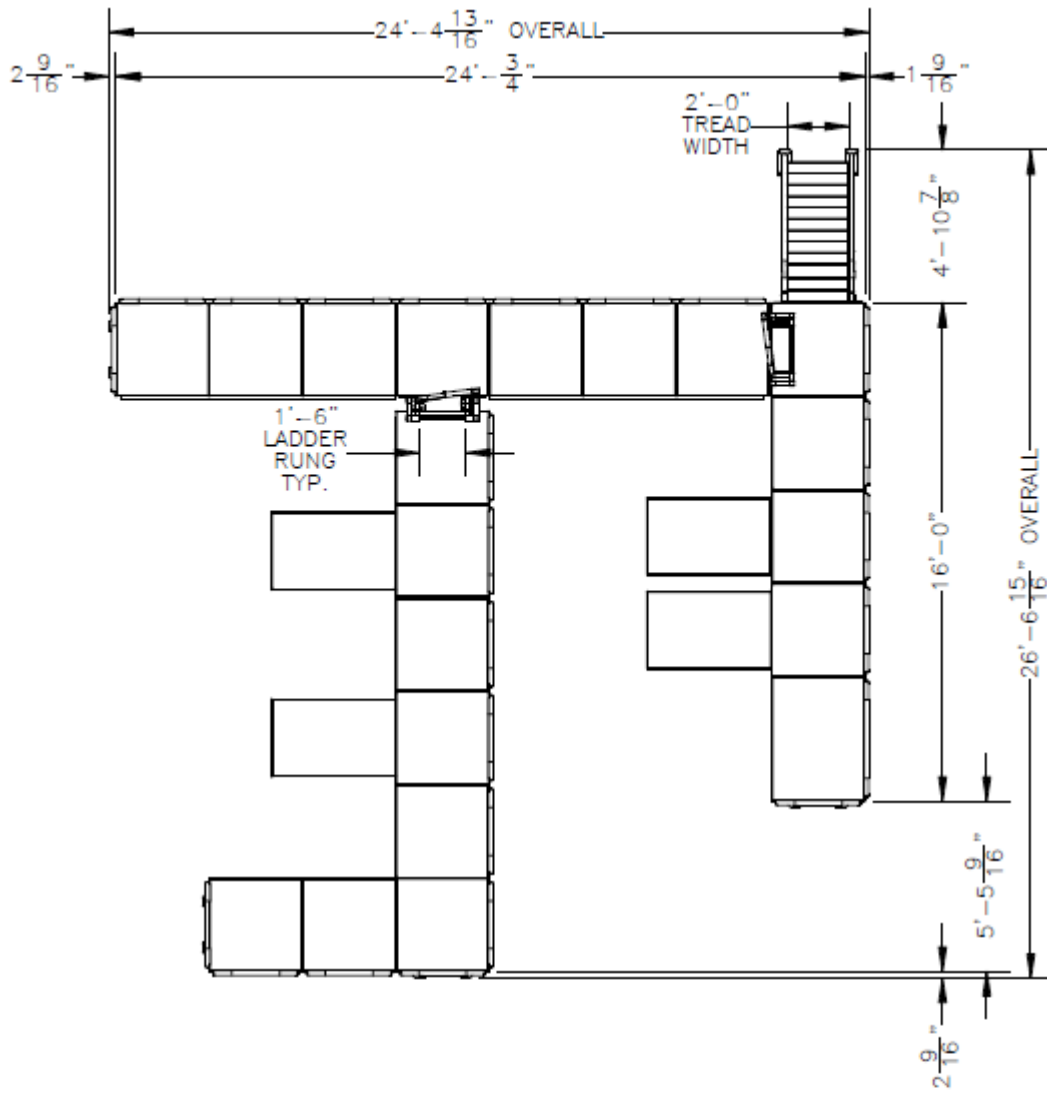
ERECTASTAP PLATFORM SYSTEM (MAIN SYSTEM)

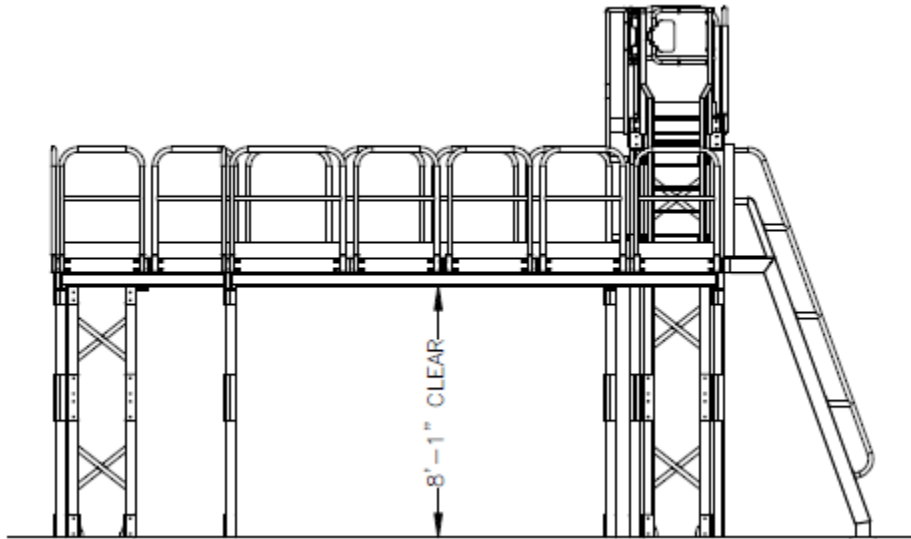


MAIN SYSTEM

BILL OF MATERIALS:

ITEM #	QTY	COMPONENT TYPE	SIZE/DESCRIPTION
1	20	PLATFORM	PF_AL_36x36
2	1	PLATFORM	PF_AL_36x48
3	1	SHIPS_LADDERS	Ships ladder
4	4	PLATFORM	PF_AL_30x48
5	14	HANDRAIL	STANDARD
6	1	HANDRAIL	HR_AL_48
7	3	STANDARD_TOWER	TOWER-17 STEP (6,6,5)
8	2	STANDARD_LADDER	down to the 9' high Cat walk Conection
9	5	STANDARD_TOWER	TOWER-11 STEP (6,5)
10	1	PLATFORM_UNDER_SUPPORT	21' total under support
11	1	PLATFORM_UNDER_SUPPORT	16' total under support
12	1	PLATFORM_UNDER_SUPPORT	18' Total Under support
13	2	EXTRA_BRACING	Ladders to Platform





Floor Slab

DACO, the manufacture and/or the installation contractor is not responsible for the design of the floor slab. The customer is responsible for insuring that the items proposed are in fact suitable for the floor in your facility.

Changes or Revisions to scope of work

All efforts will be made to accommodate changes requested by the customer. Please be aware that changes in scope must be communicated in writing or via email to DACO. These changes will be reviewed for impact to delivery of equipment and duration of erection of product. A written change order, detailing changes to scope and contract price will be provided.

Delays and Scope Changes

If additional duration for the installation is required due to delay caused by general business activity, site construction or conditions beyond our control, DACO will provide a written request for additional compensation based on additional hourly activity. These delays include those caused by the building not being ready for installation and weather related shut downs.

Exceptions to this Proposal

The following items are not included in this proposal:

1. Any unexpected changes from the municipality
- 2.

Building Permits

Procurement of a building permit is **included** in this proposal. If a building permit is required, DACO will act on behalf of the customer in obtaining the required permits. DACO has **included** in this proposal stamped calculations and drawings. All local permitting and licensing fees will be charged to the customer as actual cost plus expenses.

Material & Fuel Surcharges price indexing

Due to the current state of the steel and fuel market, quotations with steel from factories plants are only honored for 14 days and freight rates are valid for 7 days. As a result orders not placed in the timeframe the proposal must be reviewed and will need to be updated.

Installation Labor

Included in the installation labor is all necessary supervision, labor and equipment to perform the work. The crew will be a licensed contractor, using a nonunion crew working standard business hours at an ambient temperature. It is assumed that the work area will be free and clear of any and all obstructions. Installation labor will take place 1st shift Monday – Friday 7 AM – 5PM, Additional pricing for second or third shift scheduling can be provided upon request. It is assumed that this project will be completed with a single mobilization of the installation crew and is quoted as a whole not in parts. If the installation is to be split it will need to be requoted. It is assumed that if unloading materials is included, that the crew will have immediate access to the areas of work immediately after the arrival of buildable materials.

DACO material handling, the equipment manufactures and the installation contractors are not responsible for dirt and surface rusting as a result of the customer requesting or requiring the material to be unloaded, staged and stored outdoors, or otherwise exposed to the elements.

Typical installation includes the following:

Handling of material to be installed, assembly, all tools and equipment, and site cleanup. It is assumed the following is provided, if not provided services can be provided at additional cost:

Free and clear work area	Adequate Lighting
Ramped or ground level access to facility	Floor space for staging of materials
Elevated dock for receiving materials	

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Thank you for your interest in DACO products. We are pleased to propose the following:

Product Key Parameters	Extended Price
ErectaStep Materials	\$66,078
Mechanical Installation	\$12,775
Engineering, Permits & Inspections	\$9,185
Guaranteed Freight – Marysville, WA	\$11,663
Sales Tax:	\$9,172.49
Total Investment	\$108,873.49

Notes: Deposit may be required to proceed with order.

This order is custom, should you cancel the order, cancellation fees may apply.

Subject to **DACO Terms & Conditions of Sale & Special Terms & Conditions** posted on our website. [click here.](#)

Shipping & FOB Point:	Payment Terms:	Estimated Shipping & Transit Times: **	Quote Good For:
Shipping Point – Andrews, SC	Net 30 Days, On Approval of Credit . Some orders may be subject to cancellation fees. Custom orders require a deposit . Purchaser is responsible for all applicable taxes and fees. Credit Card payments are subject to a 3% convenience surcharge on orders over \$500.00	Estimated Shipping Time - 7 – 8 Weeks Estimated Transit Time – 5 – 7 Days	Product - 30 days Freight - 7 days

****Shipping time starts after approval of credit or after deposit or pre-payment is received, and if applicable, after receipt of approval drawing sign-off. Estimated transit time should be added to estimated shipping time to arrive at an estimated delivery date.**

We look forward to partnering with you to grow your business.



Kyle Westen, Territory Manager
(425) 264-4829 (Direct) / (360)855-5433 (Cell)

To place your order as shown above, please sign below and fax back to 425-656-4503.

NAME & TITLE OF PURCHASER _____

PO# & DATE ISSUED _____

SIGNATURE OF PURCHASER _____

Please fill in Shipping Address below: (If same as above mailing address, indicate "Same"):

Please indicate Shipping Instructions below:
(For example: preferred carrier, if any; collect, prepaid & add, etc.)

TERMS AND CONDITIONS OF SALE

1. The Seller's acceptance of Buyer's Order is expressly limited to and conditioned upon Buyer's assent to the terms and conditions listed herein. Buyer's execution of the Sales Order and/or acceptance of deliver of any part of the goods to be delivered here-under shall constitute Buyer's acceptance of the terms and conditions contained in this Sales Order, and the exclusion of any terms and conditions otherwise stated by Buyer or contained in Buyer's purchase documents or correspondence which conflict with of limit the terms and conditions contained herein. A FACSIMILE OF THE SALES ORDER CONTAINING BUYER'S SIGNATURE SHALL CONSTITUTE BUYER'S ACCEPTANCE AND SUCH FACSIMILE (WHICH SELLER MAY ACCEPT BY AFFIXING ITS SIGNATURE THERE TO) SHALL BE CONSIDERED AN ORIGINAL AS IF SIGNED BY ALL THE PARTIES.
2. This Order is subject in all respect to approval and acceptance by Seller at its Home Office and when so accepted is binding upon both parties, but Buyer waives notice of such acceptance. If the goods listed on the reverse side hereof are not in Seller's stock, this Order is also subject to the manufacturer's acceptance of Seller's Order for the subject goods. This document constitutes a security agreement. A carbon photographic, facsimile or other reproduction thereof may be filed by Seller as an UCC-1 Financing Statement.
3. For collect shipments, Buyer assumes all responsibility for loss or damage to the goods from any cause after delivery of the goods by Seller or by manufacturer to a common carrier which constitutes delivery to Buyer. For prepaid shipments, buyer assumes all responsibility for loss or damage to the goods from any cause after delivery of the goods by Seller or by manufacturer to the Buyer or buyer's agent.
4. The prices specified on the reverse side hereof do not include any Federal, State, or local taxes that may be assessed or levied against Seller or of any of the goods or services ordered by Buyer. The amount of such taxes will be paid by Buyer, will be billed to Buyer, and will be due and payable upon presentation of invoice. If such taxes are paid by Seller, any sum so paid will be charged and will be paid upon presentation of invoice.
5. Installation based on unimpeded access to free and clear work area.
6. All transportation, rigging and drayage charged for the goods from Seller's shipping point will be borne by Buyer.
7. Prices for the goods are stated on the reverse side hereof. The invoices for customers with established credit terms shall be payable net 30 days unless otherwise stated on the reverse side. In the event that the manufacturer's applicable price is increased prior to delivery of the goods under this Sales Order, the price of undelivered units hereunder will be increased to reflect manufacturer's increase in price at the time of delivery of the goods to Buyer. Credit card payments are subject to 3% convenience surcharge on orders over \$500.00.
8. Until Buyer has made all payments and complied with all conditions and obligations herein to be performed by it, Seller retains title to and reserves a security interest in the goods, the proceeds thereof (the terms "proceeds" being included herein solely to protect Seller against Buyer's unauthorized disposition of the goods, and without authorizing the sale or transfer of the goods by Buyer without Seller's written consent) and all accretions, additions, accessories, replacements and substitutions thereto or therefor in order to secure Buyer's payment of the purchase price hereunder and performance of all other obligations herein to be performed by Buyer. Should Buyer default in any of its obligations to Seller hereunder or remove any or all of the said goods from the premises of Buyer, without consent of Seller, or in the event that Buyer shall encumber or part with possession of same without consent of Seller, or in the event that Buyer becomes insolvent or makes an assignment for the benefit of creditors, or in the event that a petition is filed by or against Buyer under the Bankruptcy Act (including, without limitation, a petition for reorganization, arrangement or extension), or under any other insolvency law or laws providing for relief of debtors, then if, and to the extent, permitted by law, Seller shall have the right in addition to such other rights as may be available to it without prior notice to Buyer to enter into and upon premises where the goods covered by the Sales Order may be found and take possession thereof, without further proceedings, and Seller may without notice declare this Agreement terminated and may retain the consideration received by it thereunder as liquidated damages. Should a claim hereunder be placed by Seller in attorney's hands for collection or in the event of other litigation, reasonable attorney's fees and costs will be paid by Buyer to Seller. Buyer will join Seller in executing one or more financing statement or other document in form satisfactory to Seller

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and Buyer agrees to do and hereby appoints Seller its attorney-in-fact to do, at the option of Seller and at Buyer's expense all acts which Seller may deem necessary or desirable to protect and continue perfected the security interest contemplated herein. This document constitutes a security agreement. A carbon, photographic, facsimile or other reproduction thereof may be filed by Seller as an UCC-1 Financing Statement.

9. Seller will not be liable for delays in shipment or performance nor will Buyer be excused from performance because of such delays.

10. Any failure of performance by Seller hereunder which is due to causes beyond Seller's control, including, but not limited to, acts of civil or military authority, national emergencies, labor difficulties, fire, flood, or other catastrophes, Acts of God, quarantine, insurrections, war, riots, failure of transportation, and delays of suppliers, shall not be deemed to be a default by Seller.

11. Seller agrees to the extent they are assignable, to afford to Buyer without recourse to Seller, the benefits of any manufacturer's or vendor's warranties received by Seller. NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OR MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE ARE EXTENDED AND SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITIES IN CONNECTION WITH THE SALE OF THE SAID GOODS OR SERVICES, SELLER WILL NOT BE LIABLE FOR ANY DAMAGES, DIRECT, CONSEQUENTIAL OR SPECIAL, WHETHER ARISING UNDER STATUTES, THROUGH NEGLIGENCE OR OTHERWISE; SUCH DAMAGES BEING HEREBY EXPRESSLY WAIVED. Seller makes no warranty with respect to and will not be liable for infringement of any type resulting from the sale, performance or use of the goods and services provided hereunder.

12. The Sales Order, including only modifications or additions agreed to in writing by Seller, expresses the entire understanding of the parties with reference to the subject matter hereof; and no representation or agreements modifying or supplementing the terms of the Sales Order shall be valid unless in writing signed by a person authorized to sign Agreements on behalf of each party.

13. Should Buyer fail to pay any invoice to Seller in accordance with the terms of Seller's invoice, buyer shall pay to Seller interest on such delinquent payment until paid at the maximum rate allowable by the laws at the jurisdiction in which Seller's principal place of business is located. Any provision herein that may be invalid or illegal shall in no way be held to invalidate any of the remaining provisions otherwise not valid or illegal.

14. Seller shall not be liable for: claims for shortages of shipment unless made by Buyer in writing within ten (10) days, damage to property arising or connected with the equipment or services purchased by Buyer and Seller, or the equipment use, operation or failure to operate, or any act or omission of Buyer or its employees or agents.

15. In no event will Seller be liable for direct, indirect, consequential or special damages, or loss of profits.

16. Buyer will indemnify and save Seller harmless from all claims, expenses, liability and damages resulting from injuries to persons or damage to property arising from or connected with the equipment or services purchased by Buyer from Seller, or the equipment's use, operation or failure to operate, or any act or omission of Buyer or its employees or agents.

17. The Sales Orders shall be transferable in whole or in part only with Seller's prior written

SPECIAL TERMS AND CONDITIONS OF SALE

General Custom orders require a deposit and are subject to cancellation fees. Purchaser is responsible for all applicable taxes and fees.

Electrical installation is not included unless otherwise stated.

Installation based on unimpeded access to free and clear work areas. All installation is to be done during normal business hours Monday through Friday unless otherwise stated.

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Special note in the event of manufacturer sur-charges: Please be advised that, depending on the time taken to order and the project run time, pricing could go up. DACO Corporation, cannot absorb these possible additional costs. This is the responsibility of the customer. DACO Corporation, will endeavor to project and document possible price changes for the customer as effectively and correctly as possible.

Special Note: It is the choice of the Customer to either permit and then manufacture the product or to do both simultaneously. If both are done simultaneously, there is the remote risk that the City would require changes in the design of the product from its manufactured state. The bill of materials presented is based on Preliminary Engineering. However, that is no guarantee against Final Engineering or local authorities and their interpretation of local and national codes. If the Customer chooses to wait for the permit, the lead time for project completion would be longer.

Scope of Work: Construction shall be done by experienced non-union labor. All work shall be performed during normal weekday work hours. Any work required during weekends or overtime hours shall result in additional costs. These changes, or any other changes, shall be made in writing to DACO Corporation by Buyer. Buyer shall provide installers with a Free and Clear construction site/work area. Lost time due to an unprepared work area shall be billable to Buyer. Destination address shall be the construction site unless otherwise requested. Receiving, unloading and staging of the job materials or equipment on the installation site shall be by Buyer unless otherwise requested. If freight damage, of any kind, is determined, please notify DACO Corporation with-in 4 hours in order to try to recover any loses. Changes to the delivery schedule or to the delivery location may result in added charges. If the shipment cannot be delivered to the work site and must be stored elsewhere, there will be additional storage and transfer charges. If installers have to transfer materials from a remote area to the job site, extra costs shall be billed to the Buyer. Decisions concerning any permitting or inspections required by local or State authorities are the responsibility of the Buyer. By signing approval of this document, or supplying a purchase order for this proposal, the Buyer, takes full responsibility for any changes, modifications or liabilities that may occur as a result of the permit process. If local authorities require special inspections done by independent engineering labs, (that are not already included in this document), additional costs are the responsibility of the Buyer. Sufficient supply of electrical power for tools and welders shall be within 50 feet of work site. Welding may be required depending on the project. Installation pre-planning meeting should be scheduled approximately one week before installation date.

New Construction

If contract requires Sub-Contractor to name General Contractor as a Primary Non-Contributory, an additional charge of \$199.00 will apply.

Any additional insurance costs for coverage required above the limits currently provided by DACO Corporation, or it's sub-contractors will be the responsibility of the General Contractor/Customer.

All electronic billing service fees (if applicable) are not included in this quotation. They will be added to the total above.

Custom orders require a deposit and are subject to cancellation fees. Purchaser is responsible for all applicable taxes and fees.

Electrical installation is not included unless otherwise stated.

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Custom Orders: Require a deposit and are subject to cancellation fees. Purchaser is responsible for all applicable taxes and fees. If contract requires SubContractor to name General Contractor as a primary Non-Contributory, an additional charge of \$199.99 will apply. Due to the volatility of steel and oil costs, the steel & freight prices reflected in this proposal will change with time.

If the General Contractor's contract requires DACO Corporation to use an "Outside" or "Electronic Billing Service" which necessitates a registration or purchase fee, the added cost for this service will be billed back to the General Contractor.

Special Note: Please be advised that, depending on the time taken to order and the project run time, pricing could go up. DACO Corporation cannot absorb these possible additional costs. This is the responsibility of the customer. DACO Corporation will endeavor to project and document possible price changes for the customer as effectively and correctly as possible.