



FEDERAL WAY PUBLIC SCHOOLS BID DOCUMENTS

CABLING REFRESH AT TAF@SAGHALIE AND RAINIER VIEW ELEMENTARY SCHOOLS

RFP

Contract No. FWPS-022724

PREPARED BY:

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PREPARED FOR:

Federal Way Public Schools
Federal Way, WA
February 27, 2024

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Federal Way Public Schools No. 210

Cabling Refresh at TAF@Saghalie and Rainier View Elementary Schools

Bid No. FWPS-022724

Date of Bid Opening: Tuesday, March 26, 2024

NOTICE TO CONTRACTORS:

Project Description: Federal Way Public Schools (FWPS) is requesting proposals to replace existing Cat 5/5e network cabling, patch panels, and wall jacks with new Cat 6/6A ethernet cabling, patch panels, wall jacks and associated supplies at 2 FWPS schools. Fiber optic cabling to 2 new IDF's is requested at 1 site.

The estimated cost range is between \$250,000 to \$500,000.

Bid Submittal: Bids must be in a sealed envelope addressed to the address below and marked on the outside with "RFP FWPS-022324 Cabling Refresh":

Federal Way Public Schools
Purchasing Department
33330 8th Ave S
Federal Way, WA

Bids shall be due to Federal Way Public Schools by 2:00 p.m. on Tuesday, March 26, 2024. Bids received after the date and hour above stated will not receive consideration.

Bid Opening: Bids will be opened by the Owner at the location, date and hour above stated.

Mandatory Walk-Thru: There is a mandatory walk-thru of both buildings on March 8, 2024 starting at 9:00 a.m. at TAF@Saghalie school followed by Rainier View Elementary School. Please check in at the front office of the sites.

TAF@Saghalie
33914 19th Avenue SW
Federal Way, WA 98023

Rainier View Elementary
3015 S. 368th Street
Federal Way, WA 98003

Owner: Federal Way Public Schools, 33330 8th Avenue S., Federal Way, WA 98003. Contact: Purchasing, rfp@fwps.org.

Questions: Questions about this project should be directed to the Owner.

Prevailing Wage: The State of Washington prevailing wage rates are applicable for this public works project located in King County. Bidders are responsible to verify and use the most recent prevailing wage rates. The "Effective Date" for this project is the Bid Proposal due date above. The applicable prevailing wage rates may be found on the Department of Labor and Industries website located at: <https://secure.lni.wa.gov/wagelookup/>

Dates of Publications: March 1, 2024 and March 7, 2024

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINITIONS

All definitions set forth in the General Conditions of the Contract for Construction or in other Contract Documents are applicable to the Bidding Documents.

- 1.1 "Addenda" are written or graphic instruments issued by the Architect or Federal Way Public Schools prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections. The contents of Addenda are issued in no particular order and therefore should be carefully and completely reviewed. Addenda relating to administrative matters, such as, for example, the date or time of meetings or Bid receipt, may be issued in writing, by fax, mail or other delivery.
- 1.2 An "Alternate Bid" (or "Alternate") is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted by Federal Way Public Schools.
- 1.3 "Award" means the formal decision by Federal Way Public Schools notifying a Bidder with the lowest Responsive Bid of Federal Way Public Schools' acceptance of the Bid and intent to enter into a contract with the Bidder. A contract is only formed upon execution of the contract by both parties and also the delivery of the purchase order from Federal Way Public Schools to the Bidder, and not simply by Award.
- 1.4 The "Award Requirements" include the statutory requirements outlined in RCW 39.04.350 as a condition precedent to Award. This includes, but is not limited to, the following criteria:
 - 1.4.1 At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
 - 1.4.2 Have a current state unified business identifier number;
 - 1.4.3 If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in 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;
 - 1.4.4 Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);
 - 1.4.5 If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

- 1.4.6 Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its website. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption;
- 1.4.7 Before award of a public works contract, a bidder shall submit to the contracting agency a signed statement in accordance with chapter RCW 5.50 verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (1)(g) of RCW 39.04.350. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.
- 1.4.8 Within the three-year period immediately preceding the date of the bid solicitation, not have been 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 to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW; and
- 1.4.9 If the Bidder has a history of receiving monetary penalties for not achieving the apprentice utilization requirements pursuant to RCW 39.04.320, or is habitual in utilizing the good faith effort exception process, the bidder must submit an apprenticeship utilization plan within ten business days immediately following Federal Way Public Schools' notice to proceed.
- 1.5 The "Base Bid" is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base to which work may be added to or from which work may be deleted for sums stated in Alternate Bids.
- 1.6 A "Bid" is a complete and properly signed proposal to do the Work or designated portion thereof, submitted in accordance with the Bidding Documents, for the sums therein stipulated and supported by any data called for by the Bidding Documents.
- 1.7 A "Bidder" is a person or entity who submits a Bid for a prime contract with Federal Way Public Schools for the Work described in the Contract Documents.
- 1.8 The "Bidding Documents" include the Advertisement or Invitation to Bid, Instructions to Bidders, the Bid form, any other sample Bidding and contract forms, the Bid Bond (if required), and the Contract Documents, including any Addenda issued prior to receipt of Bids.

- 1.9 The "Contract Documents" for the Work consist of the Agreement Between Owner and Contractor, the General Conditions of the Contract (as well as any Supplemental, Special or other Conditions included in the Project Manual), the Drawings, the Specifications, and all Addenda issued prior to and all modifications issued after execution of the Contract,
- 1.10 The "Owner" is Federal Way Public Schools No. 210.
- 1.11 To be considered "Responsible" or meet "Responsibility" requirements, a Bidder must meet those requirements outlined in clause 1.4 as well as the following supplemental criteria applicable to this Project to the satisfaction of the Architect and Federal Way Public Schools:
- 1.11.1 The ability, capacity, and skill to perform the Contract;
 - 1.11.2 The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
 - 1.11.3 Whether the Bidder can perform the Contract within the time specified;
 - 1.11.4 The previous and existing compliance by the Bidder with laws relating to the Contract;
 - 1.11.5 The quality of performance of previous contracts, including demonstration of successful completion of similar projects of equal or greater size, scope and value in the last three (3) years;
 - 1.11.6 The designated Project Manager shall have a minimum of three (3) years of successful experience in project management and scheduling of projects of similar scope and complexity;
 - 1.11.7 The designated Superintendent shall have a minimum of five (5) years of successful supervision of projects of similar scope and complexity;
 - 1.11.8 Any other qualifications required by the Contract Documents or Bidding Documents; and
 - 1.11.9 Such other information as may be secured having a bearing on the decision to award the contract.
- 1.12 A "Sub-bidder" is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.
- 1.13 A "Unit Price" is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services as described in the Bidding Documents or in the Contract Documents. Federal Way Public Schools reserves the right to reject at any time, without impairing the balance of the proposal, any or all such predetermined unit prices.

ARTICLE 2 - BIDDER'S REPRESENTATIONS

By making its Bid, each Bidder represents that:

- 2.1 *Bidding Documents.* The Bidder has read and understands the Bidding Documents, and its Bid is made in accordance with them.
- 2.2 *Pre-Bid Meeting.* The Bidder has attended any pre-bid meeting(s) required by the Bidding Documents.
- 2.3 *Possible Self-Performed Work Requirement.* The Bidder will perform *with its own forces* at least that percentage (if any) of the Work required by the Bidding Documents or the Contract Documents.
- 2.4 *Basis.* Its Bid is based upon the materials, systems, services, and equipment required by the Bidding Documents, without exception.
- 2.5 *Examination.* The Bidder has carefully examined and understands the Bidding Documents, the Contract Documents (including without limitation any liquidated damages and insurance provisions), and the Project site, including any existing buildings, it has familiarized itself with the local conditions under which the Work is to be performed and has correlated its observations with the requirements of the Contract Documents and it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished, and all other requirements of the Contract Documents. The Bidder has also satisfied itself as to the conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof, including but not limited to those conditions and matters affecting: transportation, access, disposal, handling and storage of materials, equipment and other items; availability and quality of labor, water, electric power and utilities; availability and condition of roads; climatic conditions and seasons; physical conditions at the Project site and the surrounding locality; topography and ground surface conditions; and equipment and facilities needed preliminary to and at all times during the performance of the Work. The failure of the Bidder fully to acquaint itself with any applicable condition or matter shall not in any way relieve the Bidder from the responsibility for performing the Work in accordance with, and for the Contract Sum and within the Contract Time provided for in, the Contract Documents.
- 2.6 *Project Manual.* When a Project Manual is available, the Bidder has checked its copies of the Project Manual with the Table of Contents bound therein to ensure the Project Manual is complete.
- 2.7 *Separate Work.* The Bidder has examined and coordinated all Drawings, Contract Documents, and Specifications for any other contracts to be awarded separately from, but in connection with, the Work being bid upon, so that the Bidder is fully informed as to conditions affecting the Work under the contract being bid upon.

- 2.8 *License Requirements.* Bidders and their proposed Subcontractors shall be registered and shall hold such licenses as may be required by the laws of Washington for the performance of the Work specified in the Contract Documents. At the time of Bid submittal, Bidders shall have a certificate of registration in compliance with RCW 18.27.
- 2.9 *No Exceptions.* Bids must be based upon the materials, systems and equipment described and required by the Bidding Documents, and terms and conditions in the Contract Documents, without exception.

ARTICLE 3 - BIDDING DOCUMENTS

3.1 *Copies*

- 3.1.1 **Deposit.** Except when Bidding Documents are only made available electronically, Bidders may obtain complete sets of the Bidding Documents from the issuing office and other locations designated in the Advertisement or Invitation to Bid in the number and for the deposit amount, if any, stated. The deposit (if any) will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten (10) days after receipt of Bids. The cost of replacement of any missing or damaged documents will be deducted from the deposit. A Bidder awarded a Contract may retain the Bidding Documents, and its deposit will be refunded.
- 3.1.2 **Sub-bidders.** Bidding Documents will not be issued directly to Sub-bidders or others unless specifically offered in the Advertisement or Invitation to Bid.
- 3.1.3 **Complete Sets.** Bidders shall use complete sets of Bidding Documents in preparing Bids and are solely responsible for utilizing established plan holder identification processes to obtain updated bid information; neither Federal Way Public Schools nor the Architect assumes any responsibility for errors or misinterpretations resulting from the use of incomplete and/or superseded sets of Bidding Documents. Printed copies (when made available) of plans take precedence over any on-line images.
- 3.1.4 **Conditions.** Federal Way Public Schools and/or the Architect make copies of the Bidding Documents available on the above terms only for the purpose of obtaining Bids on the Work and do not confer a license or grant permission for any other use.
- 3.1.5 **Legible Documents.** To the extent any drawings, specifications, or other Bidding documents are not legible, it is the Bidder's responsibility to notify Federal Way Public Schools and the Architect and to obtain legible documents from the plan center.

3.2 *Interpretation or Correction of Bidding Documents*

- 3.2.1 **Format.** The Contract Documents may be divided into parts, divisions, and sections for convenient organization and reference. Generally, there has been no attempt to divide the Specification sections into Work performed by the various building trades, any Work by separate contractors, or any Work required for separate facilities in or phases of the Project.
- 3.2.2 **Notify Owner and Architect.** Bidders and Sub-bidders shall promptly notify Federal Way Public Schools and the Architect in writing of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or of the site and local conditions. All Bidders and Sub-bidders shall thoroughly familiarize themselves with specified products and installation procedures and submit to Federal Way Public Schools and the Architect any objections (in writing) no later than seven (7) calendar days prior to the Bid Date. The submittal of the Bid constitutes acceptance of products and procedures specified as sufficient, adequate, and satisfactory for completion of the Contract.
- 3.2.3 **Communications/Questions/Clarifications.** Service Providers are expected to raise any questions or additional clarifications that they have concerning the RFP document as soon as they become aware of them. Any questions or requests for clarifications must be directed in writing to rfp@fwps.org. The subject line of the email must be labeled "RFP FWPS-022724 Cabling Refresh Question". The only contact allowed with FWPS staff regarding Wireless Refresh RFP is through rfp@fwps.org as stated above. Unauthorized contact of any FWPS employee is cause for rejection of the bid.
- 3.2.4 **Addenda.** Any interpretation, correction or change of the Bidding Documents will be provided to all bidders in the form of an addendum posted to the FWPS web site at <http://www.fwps.org/rfp>. Service Providers are responsible for checking this site for any addendum that may be issued. Interpretations, corrections or changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.
- 3.2.5 **Singular References.** Reference in the singular to an article, device, or piece of equipment shall include as many of such articles, devices, or pieces as are indicated in the Contract Documents or as are required to complete the installation.
- 3.2.6 **Utilities and Runs.** The Bidder should assume that the exact locations of any underground or hidden utilities, underground fuel tanks, and any plumbing and electrical runs may be somewhat different from any location indicated in the surveys or Contract Documents.

3.3 *Substitutions*

- 3.3.1 **Standard.** The materials, products, procedures and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality that must be met by any proposed substitution.
- 3.3.2 **Substitution Procedure.** No substitution will be considered prior to receipt of Bids unless the Federal Way Public Schools and/or Architect receives a request in writing to rfp@fwps.org. The subject line of the email must be labeled "RFP FWPS-022724 Cabling Refresh Question" for approval, at least four (4) days prior to the date for receipt of Bids. Each such request shall include the name of the material or equipment proposed to be replaced and a complete description of the proposed substitute, including drawings, cuts, performance and test data, warranty information, and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other Work that incorporation of the substitute would require shall be included. The proposer has the burden to prove the merit of the proposed substitute; by proposing the substitution, the Bidder represents that it has personally investigated the proposed material or product and determined that it is equal or better in all respects to that specified, that the same or better warranty will be provided for the substitution, that complete cost data, including all direct and indirect costs of any kind, has been presented, that the Contract Time will not be increased, and that it will coordinate the installation of the substitute if accepted and make all associated changes in the Work. Federal Way Public Schools and/or the Architect's decision to approve or disapprove a proposed substitution shall be final. Submitted requests for approval shall constitute a guarantee by the Bidder that the articles or materials are in all respects, including warranty and installation, equal or superior to those specified, unless otherwise noted. To the extent the proposed substitution will require additional services by the Architect or its consultants after Bid award, the Bidder, if successful, will be required to pay the Architect or its consultants for these services at their customary hourly rates.
- 3.3.3 **Addendum.** If the Federal Way Public School and/or Architect approves a proposed substitution prior to receipt of Bids, the approval will be provided to all bidders in the form of an addendum posted to the FWPS web site at <http://www.fwps.org/rfp>. Bidders shall not rely upon approvals made in any other manner. Bidders/Sub-bidders shall rely solely on substitution approvals listed in an Addenda.
- 3.3.4 **Post-Bid Substitutions.** After the Contract has been executed, Federal Way Public Schools and the Architect may consider a written request for the substitution of material or products in place of those specified in the Contract Documents only under the circumstances as specified therein.

3.4 *Addenda*

- 3.4.1 All Addenda will be will be provided to all bidders in the form of an addendum posted to the FWPS web site at <http://www.fwps.org/rfp>.
- 3.4.2 **Verification and Acknowledgment of Receipt.** Prior to bidding, each Bidder shall ascertain that it has received all Addenda issued. Each Bidder shall acknowledge its receipt of all Addenda in its Bid.

ARTICLE 4 - BIDDING PROCEDURE

4.1 *Form and Style of Bids*

- 4.1.1 **Form.** Bids must be in a sealed envelope addressed to the address below and marked on the outside with "**RFP FWPS-022724 Cabling Refresh**":

Federal Way Public Schools
Purchasing Department
33330 8th Ave S
Federal Way, WA 98003.
- Proposals will be accepted no later than 2:00 p.m. Pacific Standard Time, Tuesday, March 26, 2024. Proposals received after this time will not be accepted. Proposals shall be deemed accepted when time stamped in the FWPS Purchasing Department.
- 4.1.2 **Entries on the Bid Form.** All blanks on Bid form shall be completed. Any additional files requested shall be uploaded into system.
- 4.1.3 **Words and Figures.** Where so indicated by the makeup of the Bid form, sums shall be expressed in both words and figures; in case of discrepancy between the two and regardless of any statement to the contrary on the Bid form, *the amount written in figures shall govern, and the words shall be used to determine any ambiguities in the figures.* Portions of the Bid form may require the addition of component bids to a total or the identification of component amounts within a total. In case of discrepancy between component amounts listed and their sum(s), the component amounts listed shall govern.
- 4.1.4 **Alternates and Unit Prices.** All requested Alternates and unit prices should be bid. Federal Way Public Schools reserves the right, but is not obligated, to reject any Bid on which all requested Alternates or unit prices are not bid. If no change in the Base Bid is required for an Alternate, enter "*No Change.*" If there is no entry, it will be presumed that the Bidder has made no offer to accomplish this Alternate. If it is not otherwise clear from the Bid or nature of the Alternate, it will be presumed that the amount listed for an Alternate is an add rather than a deduct.
- 4.1.5 **No Conditions.** The Bidder shall make no conditions or stipulations on the Bid form nor qualify its Bid in any other manner.

- 4.1.6 **Identity of Bidder.** The Bid shall be entered by the person or persons legally authorized to bind the Bidder to a contract. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder, and provide other information requested.
- 4.1.7 **Bid Amounts do Not Include Sales Tax.** The Bid shall include in the sum stated all taxes imposed by law, EXCEPT state and local sales tax on the contract sum.
- 4.1.8 **Bid Breakdown.** The Bid form may contain, for Federal Way Public Schools' accounting purposes only, a breakdown of some or all of the components included in the Base Bid.

4.2 *Potential Listing of Subcontractors*

- 4.2.1 **Procedure.** On certain projects of Federal Way Public Schools, the Bid form includes a requirement that certain Subcontractors be listed, and the list must be submitted to Federal Way Public Schools as described in the bidding documents. In these circumstances, the Bidder shall name the Subcontractor with whom the Bidder, if awarded the Contract, will subcontract *directly* (i.e., not lower-tier Subcontractors) for performance of the work of:
- (a) HVAC (heating, ventilation and air conditioning),
 - (b) plumbing as described in RCW 18.106,
 - (c) electrical work as described in RCW 19.28,
 - (d) structural steel installation,
 - (e) rebar installation, and
 - (f) any other categories of Work listed on the Subcontractor listing form(s).

In accordance with RCW 39.30.060, failure of a Bidder to submit the names of such proposed heating, ventilation and air conditioning, plumbing, electrical, structural steel installation, and rebar installation Subcontractors or to name itself to perform such Work or the naming of two or more Subcontractors to perform the same Work in the time periods described above shall render the Bidder's Bid nonresponsive and, therefore, void. The Bidder, if awarded the Contract, will subcontract with the listed Subcontractor for performance of the portion of the Work designated on the Form of Proposal, subject to the provisions of the Contract for Construction and RCW 39.30.060.

- 4.2.2 **Timing:** The listing of HVAC, plumbing, and electrical subcontractors shall occur within one hour of the published bid submittal time. The listing of structural steel installation and rebar installation subcontractors shall occur within forty-eight hours of the published bid submittal time. The listing of any other categories of Work listed on the Subcontractor listing form(s) shall occur as indicated on such forms or as otherwise described in the bidding documents.
- 4.2.3 **Self-Performance:** If the Bidder intends to self-perform any of these categories of Work, it must name itself for each such category of Work.
- 4.2.4 **If no Subcontractors:** If there is no work to be performed by a HVAC, plumbing, electrical, structural steel installation, rebar installation, or other subcontractor category identified on the Bid form(s), the Bidder should insert "None" or "N/A" on the Bid form. If a category is left blank, that shall indicate that the Bidder believes that there is no Work to be performed by that trade.
- 4.2.5 **Multiple Entries:** The Bidder shall not list more than one (1) entity for a particular category of Work identified, unless a Subcontractor varies with an Alternate Bid, in which case the Bidder shall identify the Subcontractor to be used for the Alternate and the affected portion of the Work and otherwise make its Bid clear as to which subcontractor shall be utilized depending upon the selection of alternates.
- 4.2.6 **Multiple Submittal Times.** In the event the Bidding Documents call for a second submittal time for receipt of alternate bids, and no additional Subcontractors are listed with such alternate bids, Federal Way Public Schools will consider that there is no change in the Subcontractors from those listed with regard to the base Bid.
- 4.2.7 **Replacement.** If a listed Subcontractor is unable to comply with any bondability, qualification or other requirements of the Contract or Bidding Documents (including without limitation a finding of Subcontractor non-Responsibility), Federal Way Public Schools may require the Bidder to replace the Subcontractor with a Subcontractor acceptable to Federal Way Public Schools at no change in the Contract Sum or Contract Time.
- 4.2.8 **Subcontractor Standards.** Subcontractors shall meet contractual and technical qualifications standards, and provide specialized certification, licensing, and payment and performance bonding where specified.

4.3 *Bid Security*

- 4.3.1 **Purpose and Procedure.** Each Bid exceeding the sum of Three Hundred Fifty-Thousand Dollars (\$350,000.00) shall be accompanied by a bid security payable to Federal Way Public Schools in the form required in the Bidding Documents and equal to five percent (5%) of the Base Bid. The bid security constitutes a pledge that the Bidder will enter into the Contract with Federal Way Public Schools in the form provided, in a timely manner, and on the terms stated in its Bid and will furnish in a timely manner the payment and performance bonds, certificates of insurance, Contractor's Construction Schedule, and all other documents required in the Contract

Documents. Should the Bidder fail or refuse to enter into the Contract or fail to furnish such documents, the amount of the bid security shall be forfeited to Federal Way Public Schools as liquidated damages, not as a penalty. By submitting its Bid and bid security, the Bidder agrees that any forfeiture is a reasonable prediction at the time of Bid submittal of future damages to Federal Way Public Schools.

4.3.2 **Form.** The bid security shall be in the form of a certified or bank cashier's check payable to Federal Way Public Schools or a bid bond executed by a bonding company acceptable to Federal Way Public Schools and licensed in the State of Washington on the form included with the Bidding Documents or equivalent form acceptable to Federal Way Public Schools. The Attorney-in-Fact who executes the bond on behalf of the surety shall be licensed to do business in the State of Washington and shall affix to the bond a certified and current copy of that person's Power of Attorney.

4.3.3 **Retaining Bid Security.** Federal Way Public Schools will have the right to retain the Bid Security of Bidders to whom an award is being considered until the earliest of either (a) the Contract has been executed, and payment and performance bonds have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

4.3.4 **Return of Bid Security.** Within forty-five (45) days after the Bid Date, Federal Way Public Schools will release or return Bid Securities to Bidders whose Bids are not to be further considered in awarding the Contract. Bid securities of the three apparent low Bidders will be held until the Contract has been finally executed, after which all unforfeited Bid securities will be returned.

4.4 *Submission of Bids*

4.4.1 **Procedure.** The Bid, the Bid security, and any other documents required to be submitted with the Bid shall be provided as indicated in section 4.1.1 of this document.

4.4.2 **Responsibility.** The Bidder assumes full responsibility for timely delivery for receipt of Bids.

4.4.3 **Form.** Oral, telephonic, email, fax or telegraphic Bids are invalid and will not receive consideration unless this Project is bid under small works and is explicitly allowed by the invitation to bid or other bidding documents.

4.5 *Modification or Withdrawal of Bid*

4.5.1 **After Receipt Time.** A Bid may not be modified, withdrawn or canceled by the Bidder during the 45-day period following the time and date designated for the receipt of Bids, and each Bidder so agrees by virtue of submitting its Bid.

- 4.5.2 **Before Receipt Time.** Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn in writing to rfp@fwps.org. The subject line of the email must be labeled "RFP FWPS-022724 Cabling Refresh".
- 4.5.3 **Resubmittal.** Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.
- 4.5.4 **Bid Security With Resubmission.** Bid security shall be in an amount sufficient for the Bid as modified or resubmitted.
- 4.6 *Notice*
 - 4.6.1 Notice or a request from a Bidder under these Instructions to Bidders must be in writing over the signature of the Bidder and delivered in person or by mail, email, express delivery, or fax. If the notice is by email or fax, written confirmation over the signature of the Bidder must be mailed and postmarked on or before the date and time set for the notice.

ARTICLE 5 - CONSIDERATION OF BIDS

- 5.1 *Opening of Bids:* Unless stated otherwise in the Advertisement or Invitation to Bid or an Addendum, the properly identified Bids received on time will be opened publicly and will be read aloud. An abstract of the Base Bids and Alternate Bids, if any, will be made available to Bidders and other interested parties.
- 5.2 *Rejection of Bids:* Federal Way Public Schools shall have the right but not the obligation to reject any or all Bids for any reason or for no reason, to reject a Bid not accompanied by required Bid security or by other material or data required by the Bidding Documents, or to reject a Bid which is in any way incomplete or irregular.
- 5.3 *Acceptance of Bid (Award)*
 - 5.3.1 **Owner.** Federal Way Public Schools intends (but is not bound) to award a Contract to the lowest Responsible and Responsive Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. Federal Way Public Schools has the right to waive any informality or irregularity in any Bid(s) received and to accept the Bid which, in its judgment, is in its own best interests.
 - 5.3.2 **Alternates.** Federal Way Public Schools shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Contract Documents or Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates (if any) accepted. Federal Way Public Schools retains the right to accept Alternate Bid items at the price bid within 60 days after the Agreement is executed.

- 5.3.3 **Requirements for Award.** Before the Award, the lowest Responsive Bidder shall meet the Award Requirements.

5.4 *Bid Protest Procedures*

- 5.4.1 **Procedure.** A Bidder protesting for any reason the Bidding Documents, a bidding procedure, Federal Way Public Schools' objection to the Bidder or a person or entity proposed by the Bidder, including but not limited to a finding of non-Responsibility, the rejection of a Bid; the award of the Contract or of any other aspect arising from or relating in any way to the bidding or award or lack thereof, shall cause a written (or email) protest to be filed with Federal Way Public Schools within two (2) business days of the event giving rise to the protest and, in any event, no later than two (2) business days after the date upon which Bids are opened. (Intermediate Saturdays, Sundays, and legal holidays are not counted.) The written protest shall include the name of the protesting Bidder, a detailed description of the specific factual and legal grounds for the protest, copies of all supporting documents, and the specific relief requested. The written protest shall be delivered to:

Christina Reagle, Contracts Manager
Maintenance and Operations
Federal Way Public Schools
1211 S. 332nd Street
Federal Way, Washington 98003
creagle@fwps.org
And shall be labeled: "FWPS-022724 Protest"

- 5.4.2 **Consideration.** Upon receipt of the written protest, Federal Way Public Schools will consider the protest. Federal Way Public Schools may, within three (3) business days of Federal Way Public Schools' receipt of the protest, provide any other affected Bidder(s) the opportunity to respond in writing to the protest. If the protest is not resolved by mutual agreement of the protesting Bidder and Federal Way Public Schools, the Superintendent of Federal Way Public Schools or the Superintendent's designee will review the issues and promptly furnish a final and binding written decision to the protesting Bidder and any other affected Bidder(s) within six (6) business days of Federal Way Public Schools' receipt of the protest. (If more than one protest is filed, Federal Way Public Schools' decision will be provided within six (6) business days of Federal Way Public Schools' receipt of the last protest.) If no reply is received from Federal Way Public Schools during the six-business-day period, the protest shall be deemed rejected.
- 5.4.3 **Waiver.** Failure to comply with these protest procedures will render a protest waived.
- 5.4.4 **Condition Precedent.** Timely and proper compliance with and exhaustion of these protest procedures shall be a condition precedent to any otherwise permissible judicial consideration of a protest.

ARTICLE 6 - POST BID INFORMATION

6.1 *Information From Apparent Low Bidder*

6.1.1 **Submittal.** Within twenty-four (24) hours of Federal Way Public Schools' request, the apparent low Bidder and any other Bidders so requested shall submit the following to the Architect and Federal Way Public Schools, which list may be modified by Federal Way Public Schools:

- (a) a properly executed Contractor's Qualification Statement on the form provided (unless otherwise required to be submitted at the time of the Bid);
- (b) a letter or form from the Bidder's insurance company stating that the insurance required by the Contract Documents will become effective upon execution of the Contract;
- (c) a letter or form from the Bidder's surety stating that the bond(s) required by the Contract Documents will become effective upon execution of the Contract;
- (d) if requested by Federal Way Public Schools, a detailed breakdown of the Bid in a form acceptable to Federal Way Public Schools;
- (e) the names of the persons or entities (including a designation of the Work to be performed with the Contractor's own forces, and the names of those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work;
- (f) the proprietary names and the suppliers of the principal items or systems of materials and equipment proposed for the Work; and
- (g) a State Board of Education Form D-9, if requested.

Failure to provide any of the above information in a timely manner may constitute an event of breach permitting forfeiture of the Bid security.

6.1.2 **Responsibility.** The Bidder will be required to establish to the satisfaction of the Architect and Federal Way Public Schools the reliability and Responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents as well as qualifications set forth in the Sections of the Project Manual pertaining to such proposed Subcontractor's respective trades. The Responsibility of the Bidder may be judged in part by the Responsibility of these proposed entities.

- (a) Consideration. In considering a Bidder's Responsibility, a Bidder shall be deemed to be unqualified to perform the Contract if, after review and verification of the representations included upon the Contractor's Qualification Statement submitted by the Bidder, conditions such as, but not limited to, the following appear:
- The Bidder does not have sufficient prior experience (or an acceptable substitute thereof, as described below) with projects of a similar nature in technical, managerial, and financial requirements to that in the present Contract being bid. In addition to such established contractors, a newly established contractor may be considered qualified if it has shown on the Contractor's Qualification Statement that it is staffed with sufficient technical, managerial, and financial personnel with prior experience in the nature of construction for which the Bids are invited.
 - The Bidder does not have sufficient capability to undertake the obligations of the Contract. A determination will be made when Federal Way Public Schools' review of the probable cash flow needs of the Bidder for this Project (including payroll, cost of material and supplies, equipment rental costs, and any other direct or incidental costs of the Contract), concludes that the Bidder does not have sufficient financial resources to enable it to satisfy its financial obligations under the Contract.
 - The Bidder has submitted unrealistic unit prices as determined by other bidders' unit prices for this Project.
 - The Bidder does not have sufficient staff, equipment, or plant available to perform the Contract. Federal Way Public Schools' determination in this matter will be based upon that represented by Bidder in the Contractor's Qualification Statement.
 - The Bidder has a history of unsatisfactory performance of contracts of this or similar nature, regardless of whether such contracts existed between Federal Way Public Schools and the Bidder, or other parties.
 - 1) A determination of this nature will be made if Federal Way Public Schools, after review of the Bidder previous work experience, determines that the Bidder's unsatisfactory performance has resulted predominantly from the Bidder's failure rather than a failure to perform by another party. Federal Way Public Schools will give the Contractor an opportunity to explain such nonperformance's before any final determination is reached.

- 2) A determination of failure to perform will be made if Federal Way Public Schools is satisfied after review of the Bidder's prior experience, that the Bidder has failed to satisfy its obligations under past contracts and Federal Way Public Schools cannot safely assume satisfactory performance of the Contract by the Bidder.
- 3) In reaching its determination, Federal Way Public Schools may consider statements of other parties to the prior unperformed contracts, as well as the representations of the Bidder on its Contractor's Qualification Statement.

- 6.1.3 **Subcontractors.** The Responsibility of the Bidder may be judged in part by the Responsibility of its Subcontractors. Bidders must verify Responsibility criteria for each first-tier Subcontractor. A Subcontractor of any tier that hires other Subcontractors must verify Responsibility criteria for each of its next lower-tier Subcontractors. Verification shall include that each Subcontractor, at the time of subcontract execution, is Responsible and possesses an electrical contractor license, if required by RCW 19.28, or an elevator contractor license, if required by RCW 70.87, and can obtain any payment and performance bonds required by the Bidding documents or the Contract Documents.
- 6.1.4 **Request to Modify Criteria.** No later than ten (10) days prior to the Bid Date, a potential Bidder may request in writing that Federal Way Public Schools modify the Responsibility criteria listed in clause 6.1.2 above or elsewhere in the Contract Documents or Bidding Documents. Federal Way Public Schools will evaluate the information submitted by the potential Bidder and respond before the Bid Date. If the evaluation results in a change of the criteria, Federal Way Public Schools will issue an Addendum identifying the new criteria.
- 6.1.5 **Objection.** Prior to the Award of the Contract, Federal Way Public Schools will notify the Bidder in writing if either Federal Way Public Schools or the Architect, after due investigation, has reasonable objection to the Bidder or a person or entity proposed by the Bidder, and Federal Way Public Schools will provide the reasons for the determination. The Bidder may appeal the determination within two (2) business days of its receipt of the objection by presenting additional information to Federal Way Public Schools, and Federal Way Public Schools will consider the additional information before issuing its final determination. The Bidder may, after Federal Way Public Schools' objection or determination, and at Bidder's option, (1) withdraw the Bid, (2) submit an acceptable substitute person or entity with no change in the Contract Time and no adjustment in the Base Bid or any Alternate Bid, even if there is a cost to the Bidder occasioned by the substitution, or (3) appeal by filing a protest in accordance with paragraph 5.4. In the event of withdrawal under these circumstances, Bid security will not be forfeited.

- 6.1.6 **Change.** Persons and entities proposed by the Bidder and to whom Federal Way Public Schools or the Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of Federal Way Public Schools and the Architect.
- 6.1.7 **Right to Terminate.** The Bidder's representations concerning its qualifications will be construed as a covenant under the Contract. Should it appear that the Bidder has made a material misrepresentation on its Contractor's Qualification Statement, Federal Way Public Schools shall have the right to terminate the Contract for cause for the Contractor's breach, and Federal Way Public Schools may then pursue such remedies as exist elsewhere under this Contract, or as otherwise are provided at law or equity.
- 6.2 *Information From Other Bidders:* All other Bidders designated by the Architect as under consideration for award of a Contract shall also provide a properly executed Contractor's Qualification Statement, if so requested by Federal Way Public Schools.
- 6.3 *Bidding Mistakes:* Federal Way Public Schools will not be obligated to consider notice of claimed bidding mistakes received more than three (3) business days after the Bid opening. In accordance with Washington law, a low Bidder that claims error and fails to enter into the Contract is prohibited from bidding on the Project if a subsequent call for Bids is made for the Project.

ARTICLE 7 - PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

- 7.1 *Bond and Bondability Requirements:* Within seven (7) days after the issuance of Federal Way Public Schools' notice of intent to award the Contract, and prior to the date of execution of the Contract, the Bidder shall furnish evidence satisfactory to Federal Way Public Schools of its ability to obtain statutory bonds pursuant to RCW 39.08 covering the faithful performance of the Contract and the payment of all obligations arising thereunder in the form and amount prescribed in the Contract Documents. The cost of such bonds shall be included in the Base Bid. Such bonds for projects under \$150,000 may be waived by Federal Way Public Schools; see RCW 39.08.010(3).
- 7.2 *Time of Delivery and Form of Bonds:* The Bidder shall deliver the required bonds to Federal Way Public Schools within seven (7) days after the date of execution of the Contract and prior to commencing operations at the site. The bonds shall be written on current AIA payment and performance bond forms (A312) and shall be in the amount of the Contract Sum plus sales tax.

ARTICLE 8 - FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

- 8.1 *Form to Be Used:* The Agreement for the Work will be written on the form(s) contained in or referenced by the Bidding Documents, including any General, Supplemental or Special Conditions, and the other Contract Documents included with the Project Manual. In the event no form is enclosed or referenced, an AIA Document A101-2017, "Standard Form of Agreement Between Owner and Contractor, where the basis of payment is a Stipulated Sum," along with AIA Document A201-2017, "General Conditions of the Contract for Construction" as both are revised, modified and supplemented by Federal Way Public Schools, will be used.

All references in these Instructions to Bidders to the A101 or the A201 refer to the documents as revised by Federal Way Public Schools.

- 8.2 *Conflicts:* In case of conflict between the provisions of these Instructions and any other Bidding Document, these Instructions shall govern. In case of conflict between the provisions of the Bidding Documents and the Contract Documents, the Contract Documents shall govern.

ARTICLE 9 - NONDISCRIMINATION

- 9.1 *Nondiscrimination Requirement.* During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- 9.2 *Obligation to Cooperate.* Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
- 9.3 *Default.* Notwithstanding any provision to the contrary, Agency may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Agency may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
- 9.4 *Remedies for Breach.* Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Agency for default under this provision

ARTICLE 10 - CONTRACT DOCUMENTS

This paragraph contains descriptions of some but not all of the provisions of the Contract Documents.

- 10.1 *Retainage*: The Contract Documents specify the statutory retainage requirements of RCW 60.28 for this Project.
- 10.2 *Contract Time*: The Contract Documents specify the Contract Time. Timely completion of this Project is essential to Federal Way Public Schools.
- 10.3 *Prevailing Wages*: The Contract Documents contain requirements regarding the payment of prevailing wages pursuant to RCW 39.12.
- 10.4 *Written Claims and Notice*: The Contract Documents contain a number of provisions that require the Contractor to provide notice of Claims and to make and support Claims in writing within a specified time in order to maintain the Claim.
- 10.5 *Changes in Contract Sum*: The Contract Documents contain provisions specifying requirements for and pricing of changes in the Contract Sum.
- 10.6 *Dispute Resolution*: The Contract Documents contain alternative dispute resolution procedure which, among other things, requires non-binding mediation of all disputes.
- 10.7 *Contractor Registration*: Pursuant to RCW 39.06, the Bidder shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27.
- 10.8 *Taxes*. The Contractor shall include in its Bid and pay for all applicable taxes except Washington State Sales Tax and Local Sales Tax on the Contract Sum, which shall be excluded in the preparation of its Bid. Such State and Local Sales Taxes shall be added to the Contract Sum, paid by Federal Way Public Schools to the Contractor, and then paid by the Contractor over the course of the Project. Refer to general, supplementary or other conditions regarding further information.
- 10.9 *Other Provisions*: The above paragraphs contain descriptions of some but not all of the provisions of the Contract Documents. Bidders should review in detail the Contract Documents themselves and not rely upon the above paragraphs in this article as complete or inclusive.

END OF SECTION

PART 1 - GENERAL:

1.1 General Information:

Federal Way Public Schools (FWPS) is requesting proposals to replace existing Cat 5/5e network cabling, patch panels, and wall jacks with new Cat 6/6A ethernet cabling, patch panels, wall jacks and associated supplies at 2 FWPS schools. Fiber optic cabling to 2 new IDF's is requested at 1 site. See Appendices A and B for further details.

This RFP contains instructions for submitting a proposal, the procedures and criteria by which a Service Provider will be selected and the contractual terms by which the District proposes to govern the relationship between it and the selected Service Provider(s). All pricing must be listed by school.

1.2 Mandatory Walk-Thru:

There is a mandatory walk-thru of both buildings on March 8, 2024 starting at 9:00 a.m. at TAF@Saghalie school followed by Rainier View Elementary School. Building maps with select cable distances and hallway lengths will be provided to all attendees.

TAF@Saghalie

33914 19th Avenue SW
Federal Way, WA 98023

Rainier View Elementary

3015 S. 368th Street
Federal Way, WA 98003

1.3 Evaluation Criteria:

The District will evaluate all Proposers. Evaluation of the proposals received in compliance with the RFP instructions will be performed for the purpose of selecting a Proposer(s) who best meets the needs of the District. The Proposer(s) with the highest scores and meets USAC E-Rate guidelines will be selected as the final Service Provider(s). In evaluating RFP responses, the District will award points to each response up to the maximum points that are listed for each of the following criteria:

- Price of Eligible Service - 40%
- Compatibility with existing district network infrastructure – 30%
- Prior experience with District – 20%
- E-Rate Qualifications and References – 10%

Maximum 100 points

1.4 Selection Process:

Proposals will be evaluated based upon, but not limited to, related experiences of the respondents, Service Provider references, and overall proposal content, as outlined in the matrix. Proposals will be reviewed by District personnel.

The District reserves the right to seek additional information and/or clarification from any Proposer, the right to reject any and all responses received with or without cause, the right to negotiate all final terms and conditions of any agreement entered into with any Proposer that submits a response and also to waive any irregularities or informality if deemed to be in the best interest of the District.

1.5 References:

Please submit at least two (2) references of recent work, within the past 3 years, with organizations of similar size and located within the state of Washington. Reference information must include: entity name; address; phone number; including the name and email address of contact person.

1.6 Communications/Questions/Clarifications:

Service Providers are expected to raise any questions or additional clarifications that they have concerning the RFP document as soon as they become aware of them. Any questions or requests for clarifications must be directed in writing to rfp@fwps.org. The subject line of the email must be labeled "RFP FWPS-022724 Cabling Refresh Question". The only contact allowed with FWPS staff regarding Wireless Refresh RFP is through rfp@fwps.org as stated above. Unauthorized contact of any FWPS employee is cause for rejection of the bid.

1.7 Submission of the Response:

Bids must be in a sealed envelope addressed to the address below and marked on the outside with "RFP FWPS-022724 Cabling Refresh":

Federal Way Public Schools
Purchasing Department
33330 8th Ave S
Federal Way, WA 98003.

Proposals will be accepted no later than 2:00 p.m. Pacific Standard Time, March 26, 2024. Proposals received after this time will not be accepted. Proposals shall be deemed accepted when time stamped in the FWPS Purchasing Department.

1.8 E-Rate Requirements:

It is the intention of FWPS to apply for universal service support under the Schools and Libraries support mechanism (E-Rate program) for the services that are the subject of this RFP. This proposal will be funded only if approved by USAC and if USAC appropriates the funds. Term of this agreement shall be April 1, 2024 through September 30, 2025.

Any Service Provider responding to this RFP must be an Eligible Services Provider as defined under the Federal Communication Commission's E-Rate program and will be required to submit their assigned SPIN (Service Provider Identification Number) and FCC Registration Number as part of its response along with a copy of their Form 498-Service Provider Information Form. If you do not have a SLD SPIN number, or FCC Registration Number, you MUST obtain one before you respond to this RFP.

The District plans to use E-Rate BEAR invoicing for these services at the discount rate indicated on the Funding Commitment Decision Letter.

Milestone	Date
Issue RFP	February 27, 2024
Mandatory Walk Through at TAF@Saghalie (33914 19 th Ave SW, Federal Way, WA 98023) followed by Rainier View Elementary School (3015 S 368 th St, Federal Way, WA 98003)	March 8, 2024; 9:00 a.m. PST
Deadline for Submission of Written Questions	March 15, 2024; 5:00 p.m. PST
Question Responses posted to FWPS Website	March 18, 2024; 5:00 p.m. PST
Proposal Due Date & Bid Opening (Public)	March 26, 2024; 2:00 p.m. PST

APPENDIX A

Cabling Refresh at TAF@Saghalie

Address: 33914 19th Ave SW, Federal Way, WA 98023

Scope of Work:

- TAF@Saghalie currently has three wiring closets
 - MDF with 2 post, free standing rack is located in the Library/Engineering Lab.
 - IDF 2 with two, 2 post, free standing racks is located in closet in Classroom 105.
 - IDF 3 with wall rack located in Portable B, no cabling replacements requested.
- MDF currently contains 350 network drops supporting Main Office and 300 wing.
- IDF 2 in room 105 currently contains 500 network drops supporting 100 & 200 wing.
- Due to some cabling length exceeding current standards, we are requesting 2 new IDF's:
 - Install new IDF 4 proposed in closet near room 200 to support all classrooms in the 200 wing (reduces cable count in IDF 105).
 - Install new IDF 5 proposed in storage room next to room 309 to support gym, weight room and possibly some 300 wing classrooms (reduces cables count in MDF).
 - FWPS ITS to provide wall mounted 8U equipment racks for new IDF's to support up to two 48 port patch panels and district provided network switches.
- Please include 12 strand OM4 Fiber cabling with fiber tray and termination from both the new IDF 4 & IDF 5 back to MDF.
- Install 3 locations of two jacks in each classroom (CAT6 cable) with 2 additional jacks for wireless access points (CAT6A) on the ceiling near the middle of the room.
- Run new qty 2 CAT6A ethernet cables to each current access point location.
- Office spaces should have 2 locations of two drops or three drops if there is only one location.
- Reuse current cabling conduits and wall port locations as possible.
- For all locations add a service loop at each end.
- Cut and remove existing cabling back to hallway or best identified location to make way for pathway of new cabling.
- No cabling installation requested in any of the portables.
- Label all jacks with IDF # - Patch Panel # - Drop # (example 1-2-24, MDF=1)
- Provide drop map of building at completion of project.

Installation Specifics:

Preference for installation is between June 24, 2024 and August 16, 2024 (during summer non-student window) dependent on timing of USAC funding commitments. Installation work occurring during the school year is possible after school hours while keeping wired services available during the school day. All installation must be completed by September 30, 2025.

Background Information:

Current cabling and jack manufacturer in use within the district include the following:

- Leviton patch panels, jacks, face plates and fiber tray
- Berk-Tek Cat6 & Cat6A ethernet cable and OM4 fiber optic cable

- 25-year system warranty

According to USAC Guidelines, Federal Way Public Schools is posting the current product specifications under this RFP with equivalency support. Service Providers may respond with equivalent products that meet or exceed the specifications of the devices outlined.

Cabling Refresh questions to be directed to Tim Crawford or Designee, via rfp@fwps.org. The subject line of the email must be labeled “RFP FWPS-022724 Cabling Refresh Question”.

APPENDIX B

Cabling Refresh at Rainer View Elementary School **Address: 3015 S. 368th Street, Federal Way, WA 9800**

Scope of Work:

- Rainier View Elementary School has three wiring closets, with the MDF centrally located in the main building with 2 IDF's located in Portables.
 - MDF with 2 post, free standing rack is located in the AV Room behind the Library and is accessible from the 300-wing hallway.
 - IDF with wall rack located in Portable 1, no cabling replacements requested.
 - IDF with wall rack located in Portable 4, no cabling replacements requested.
- There are 300 network drops in the main building.
- Install 3 locations of two jacks in each classroom (CAT6 cable) with 2 additional jacks for wireless access points (CAT6A) on the ceiling near the middle of the room.
- Run new qty 2 CAT6A to each current access point location.
- Office spaces should have 2 locations of two drops or three drops if there is only one location.
- Reuse current cabling conduits and wall port locations as possible.
- For all locations add a service loop at each end.
- Cut and remove existing cabling back to hallway or best identified location to make way for pathway of new cabling.
- No cabling installation requested in any of the portables.
- Label all jacks with IDF # - Patch Panel # - Drop # (example 1-2-24, MDF=1)
- Provide drop map of building at completion of project.

Installation Specifics:

Preference for installation is between June 24, 2024 and August 16, 2024 (during summer non-student window) dependent on timing of USAC funding commitments. Installation work occurring during the school year is possible after school hours while keeping wired services available during the school day. All installation must be completed by September 30, 2025.

Background Information:

Current cabling and jack manufacturer in use within the district include the following:

- Leviton patch panels, jacks, face plates and fiber tray
- Berk-Tek Cat6 & Cat6A ethernet cable and OM4 fiber optic cable
- 25-year system warranty

According to USAC Guidelines, Federal Way Public Schools is posting the current product specifications under this RFP with equivalency support. Service Providers may respond with equivalent products that meet or exceed the specifications of the devices outlined.

Cabling Refresh questions to be directed to Tim Crawford or Designee, via rfp@fwps.org. The subject line of the email must be labeled "RFP FWPS-022724 Cabling Refresh Question".

**CONTRACTOR CERTIFICATION
WAGE THEFT PREVENTION – RESPONSIBLE BIDDER CRITERIA
WASHINGTON STATE PUBLIC WORKS CONTRACTS**

Return this signed “Contractor Certification” with your signed Bid Form.

Prior to awarding a public works contract, Federal Way Public Schools is required to determine that a bidder meets the responsibility criteria to be considered a ‘responsible bidder’ and is qualified to be awarded a public works project. See [RCW 39.04.350\(1\)\(g\) & \(2\)](#). Pursuant to legislative enactment in 2017, the responsibility criteria include a contractor certification that the contractor has not willfully violated Washington’s wage laws. See Chap. 258, 2017 Laws (enacting SSB 5301).

Project No.:	<u>FWPS-022724</u>
Project Name:	<u>Cabling Refresh</u>
Procurement Solicitation Date:	<u>March 26, 2024</u>

I hereby certify, on behalf of the firm identified below, as follows (check one):

- ☐ **NO WAGE VIOLATIONS.** This firm has NOT been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in [RCW 49.48.082](#), any provision of RCW chapters [49.46](#), [49.48](#), or [49.52](#) within three (3) years prior to the date of the above-referenced procurement solicitation date.

OR

- ☐ **VIOLATIONS OF WAGE LAWS.** This firm has been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in [RCW 49.48.082](#), a provision of RCW chapters [49.46](#), [49.48](#), or [49.52](#) within three (3) years prior to the date of the above-referenced procurement solicitation date.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the certifications herein are true and correct and that I am authorized to make these certifications on behalf of the firm listed herein.

FIRM NAME: _____
Name of Contractor/Bidder – Print full legal entity name of firm

By: _____
Signature of authorized person

Print Name of person making certifications for firm

Title: _____
Title of person signing certificate

Place: _____
Print city and state where signed

Date: _____

CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor _____ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

By: _____
Signature of authorized person

Print Name of person making certifications for firm

Title: _____
Title of person signing certificate

Place: _____
Print city and state where signed

Date: _____

AGREEMENT
BETWEEN
FEDERAL WAY PUBLIC SCHOOLS
AND CONTRACTOR
PUBLIC WORKS CONTRACT

This AGREEMENT is made as of «ProcessFields_ContractStartDate», by and between:

The "School District":

Federal Way Public Schools No. 210
Maintenance and Operations
1211 S. 332nd Street
Federal Way, Washington 98003
Attn: «ProcessFields_ProjectManager»
253-945-5930

and the "Contractor":

«Company_Name»
«Company_Address» «Company_Suite»
«Company_City», «Company_State»
«Company_Zip»
Attn: «Contact_FirstName»
«Contact_LastName»

A general description of the Project is:

«ProcessFields_ProjectDescription» -
«ProcessFields_Site»

Contract Sum for the Work:
tax

«ProcessFields_TotalCostBeforeTax» plus sales

Retainage:

Per RCW 60.28.011, the School District will retain 5% of the Contract Sum. Retainage will be released upon approval of the Department of Revenue, the Employment Security Department, Labor and Industries and as required by statute and this Agreement

Payment and Performance Bond:

Payment and Performance Bonds are required for this project.

Date of Final Completion of the Work: «ProcessFields_ContractEndDate»

Liquidated Damages, if any: \$1.00 per calendar day

The School District and Contractor agree as set forth herein and below

ARTICLE 1 - THE WORK. The Contractor shall fully execute and complete the entire Work described in the Contract Documents.

ARTICLE 2 - COMMENCEMENT AND SUBSTANTIAL AND FINAL COMPLETION

2.1 The date of commencement of the Work (the date from which the Contract Time is measured) is the date of the School District's delivery of its Purchase Order to Contractor. Contractor shall not commence performance of any Work under this Agreement until Contractor's receipt of an executed Purchase Order from the School District. The School District's Purchase Order must be issued to the Contractor in order for the School District to be fully obligated to this Agreement.

- 2.2 The Contractor shall achieve Final Completion of the entire Work as specified above, subject to adjustments of the Contract Time as provided in the Contract Documents.

ARTICLE 3 - THE CONTRACT SUM.

- 3.1 The School District shall pay the Contractor for the Contractor's performance of the Contract the Contract Sum stated above, subject to additions and deductions as provided in the Contract Documents. Sales tax is not included in and shall be added to the Contract Sum.
- 3.2 According to the School District's pre-bid estimate, this Project is not estimated to cost one million dollars or more. If the Project is estimated to cost one million dollars or more, then this Project is subject to the apprenticeship requirements of RCW 39.04.320. If not, then such apprenticeship requirements do not apply.

ARTICLE 4 - PAYMENT.

- 4.1 The School District will make payments to the Contractor as provided below and elsewhere in the Contract Documents based upon Application(s) for Payment submitted by the Contractor. The School District will make progress payments on account of the Contract Sum per Article 15. The School District will make final payment, constituting the entire unpaid balance of the Contract Sum except statutory retainage, to the Contractor when the Work has achieved Final Completion, the Agreement has been fully performed, and the School District's Board of Directors has accepted the Work. The retainage shall be paid pursuant to RCW 60.28 and the Contract Documents. A performance and payment bond is required; see Article 17. Payments provided by authorities providing grant monies shall also be subject to those authorities' requirements.
- 4.2 Payments due and unpaid under the Agreement shall bear interest at the Bank of America prime rate plus 2%, unless a higher rate is required by RCW 39.76.

ARTICLE 5 - PERMITS AND FEES

- 5.1 Unless otherwise stated, the Contractor shall prepare documents for, secure, and pay for all necessary permits required for the Work.
- 5.2 The School District shall secure and pay for necessary approvals, easements, assessments and charges required for the use or occupancy of permanent structures or permanent changes in existing facilities.

ARTICLE 6 - PROPERTY INSURANCE

- 6.1 The School District shall include this project in its existing property insurance coverage for loss or damage to the property in the course of construction. This may be a standard property policy and is not necessarily a builder's risk policy.
- 6.2 The Contractor shall be responsible for securing property insurance for its own equipment. This property insurance shall be on an "all-risk" or equivalent policy form and shall include, but not be limited to, coverage for fire and extended coverage, theft, vandalism, malicious mischief, collapse and windstorm. Any deductible shall be the sole responsibility of the Contractor.
- 6.3 Any loss insured under Section 6.1 is to be adjusted with the School District and made payable to the School District as trustee for the insureds as their interest may appear. The Contractor shall pay each subcontractor a just share of any

insurance moneys received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each subcontractor to make payments to his sub-subcontractors in similar manner.

- 6.4 The School District, as trustee, shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within five days after the occurrence of loss to the School District's exercise of this power, and if such objection is made, the matter shall be decided by a court of competent jurisdiction or as the parties in interest otherwise agree. The School District, as trustee, shall, in that case, make settlement with the insurers in accordance with directions of the court.

ARTICLE 7 - ENUMERATION OF CONTRACT DOCUMENTS.

- 7.1 The Contract Documents are enumerated as follows, except for modifications issues after execution of the Agreement:
- 7.1.1 This executed Agreement between the School District and Contractor, including the attached General Conditions.
 - 7.1.2 The School District's Purchase Order
 - 7.1.3 Any Supplementary and other Conditions of the Agreement that are in the Project Manual or Specifications, or referenced therein.
 - 7.1.4 Specifications
 - 7.1.5 Drawings
 - 7.1.6 Addenda
 - 7.1.7 Any other documents forming part of the Contract Documents.

This Agreement entered into as of the day and year first written above.

FEDERAL WAY PUBLIC SCHOOLS No. 210

«Company_Name»

By _____
(Signature)

By _____
(Signature)

«ProcessFields_ExecutiveDirector»

«ProcessFields_Title»

(Printed name and title)

GENERAL CONDITIONS

ARTICLE 8 - THE CONTRACT DOCUMENTS

- 8.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one is as binding as if required by all. Performance by the Contractor is required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- 8.2 The Contract Documents shall not be construed to create a contractual relationship of any kind between the School District and a Subcontractor of any tier, between the A/E and the Contractor, or between any persons or entities other than the School District and Contractor.
- 8.3 The term "Work" means the demolition, abatement, disposal, construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.
- 8.4 The term "A/E" may be an architect, engineering or similar company, or consultant, and is not necessarily a licensed architect or engineer. If there is no designated A/E, then the School District or its designated representative will perform all of the functions of the A/E described herein. The A/E is not an agent of the School District, and is not authorized to speak on behalf of or bind the School District.
- 8.5 The Contractor's execution of the Agreement is a representation and acknowledgement that the Contractor has visited the site and become familiar with the local conditions under which the Work is to be performed, that the Contract Sum is reasonable compensation for all the Work, and that the Contract Time is adequate for the performance of the Work. The Contractor's execution of the Agreement is a further representation and acknowledgement that the Contractor has carefully checked and verified all pertinent figures and that it has carefully examined the Contract Documents and the Project site, including any existing structures, and that it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished, and all other requirements of the Contract Documents, as well as the surface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof.

ARTICLE 9 - ADMINISTRATION OF THE AGREEMENT

- 9.1 The School District, with assistance from the A/E, will provide administration of the Agreement. The School District must approve in writing all changes in the Contract Sum or Time and all Change Orders, Construction Change Directives, and payments to the Contractor. At the discretion of the School District, the School District or its project manager may perform any of the duties of the A/E described herein.
- 9.2 Except for the representative listed on the cover page of the Agreement, and then only if in writing, neither any representative of the School District nor the A/E is authorized to revoke, alter, enlarge, relax or release any requirements of the Contract Documents, nor to approve or accept any portion of the Work whether or not executed in accordance with, nor to issue instructions contrary to the Contract Documents.

- 9.3 The School District or the A/E may disapprove, condemn or reject work when, in its opinion, the Work does not conform to the Contract Documents. The School District or the A/E may require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work is then fabricated, installed or completed.
- 9.4 The School District or the A/E may call, schedule and conduct job meetings, which the Contractor and representatives of its Subcontractors shall attend, to discuss such matters as procedures, progress, problems and scheduling.
- 9.5 The School District and the A/E may visit the site at intervals each considers appropriate to the stage of the Work to become generally familiar with the progress and quality of the completed Work. However, neither will be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.
- 9.6 The School District may occupy the site during the course of the Work.

ARTICLE 10 - THE CONTRACTOR

- 10.1 The Contractor shall perform, supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, personnel and procedures, for safety, and for coordinating all portions of the Work under the Agreement, unless the Contract Documents specifically provide other instructions concerning these matters. The Contractor shall be and operate as an independent contractor in the performance of the Work and shall have complete control over and responsibility for all personnel performing the Work. The Contractor is not authorized to enter into any agreements or undertakings for or on behalf of the School District or to act as or be an agent or employee of the School District.
- 10.2 The Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, disposal, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- 10.3 **Workers.** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall be responsible to the School District for the acts and omissions of the Contractor's employees, Subcontractors of any tier and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.
- 10.3.1 Background Checks. In the event Contractor or any of their agents or employees will have regularly scheduled unsupervised access to children, the District will conduct a record check through the Washington State Patrol criminal investigation system under RCW 43.43.830-43.43.834, 10.97.030 and 10.97.050, and through the Federal Bureau of Investigation before allowing the individual onto the Project site. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. This record check shall be valid for two (2) years. The Contractor shall pay for the requirements set forth in this paragraph.

- 10.3.2 **Crimes Against Children.** In accordance with RCW 28A.400.330, contractor shall prohibit any employee of the Contractor from working at a public school who has or may have contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Any failure to comply with this section shall be grounds for the school district immediately terminating the contract for cause.
- 10.3.3 **Subcontractor Compliance.** Contractor shall require any of its Subcontractors to fully comply with the requirements of this section.
- 10.4 **Warranty.** The Contractor warrants that materials and equipment furnished under the Agreement will be of good quality and new, that the Work will be performed in a skillful and workmanlike manner, free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. The School District may conclude that Work not conforming to these requirements, including substitutions or deviations from the drawings or specifications not properly approved and authorized, is defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.
- 10.5 **Taxes and Fees.** The Contractor shall pay sales, consumer, use, B & O, and other similar taxes that are legally enacted when bids are received, whether or not yet effective or merely scheduled to go into effect.
- 10.6 **Legal Compliance.** The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Work. The Contractor shall promptly notify the School District and A/E in writing if the Contractor observes the Drawings or Specifications to be at variance with them.
- 10.7 **Submittals.** The Contractor shall review, approve and submit to the School District with reasonable promptness Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. The Work shall be in accordance with approved submittals.
- 10.8 **Progress Schedule.** Within *fourteen days* of execution of this Agreement, the Contractor shall submit a preliminary schedule of the Work to the School District. Failure to do so shall constitute a material breach of the Contract and a material breach of the conditions of the bid bond, if any. Within *thirty days* after execution of the Agreement, and before any progress payment need be made, the Contractor, after consultations with its Subcontractors, shall submit a Progress Schedule to the School District. Neither the School District nor the A/E will, however, be required to review or approve the substance or sequence of the Progress Schedule, which are the Contractor's sole responsibility. The Contractor will be responsible for planning, scheduling, managing, and reporting the progress of the Work in accordance with all of the specific methods and submittals described in the Contract Documents.

The Contractor shall use the Contract Schedule to plan, coordinate, and prosecute the Work in an orderly and expeditious manner.

- 10.9 **Clean-Up.** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials caused by operations under the Agreement. Prior to completion of the Work or at the School District's request, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials. If the Contractor fails to do so, the School District may do so and charge to the Contractor all costs incurred.
- 10.10 **Access.** The Contractor shall provide the School District and the A/E and their respective consultants access to the Work wherever located.
- 10.11 **Royalties and Patents.** The Contractor shall pay all royalties and license fees, shall defend suits or claims for infringement of patent rights and shall hold the School District and the A/E harmless from loss on account thereof, unless the Contract Documents require the particular infringing design, process or product of a particular manufacturer or manufacturers.
- 10.12 **Indemnification.** Subject to the following conditions and to the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the School District and A/E and their respective agents, employees, directors, consultants, successors and assigns ("Indemnified Parties") from and against all claims, damages, losses and expenses, direct and indirect, or consequential, including but not limited to costs and attorneys' fees incurred on such claims and in proving the right to indemnification, arising out of or resulting from or connected to the performance of the Work, any act or omission of the Contractor, its agents, any of its Subcontractors of any tier, and anyone directly or indirectly employed by the Contractor or Subcontractors of any tier ("Indemnitor"). The Contractor will fully defend, indemnify, and hold harmless the Indemnified Parties for the sole negligence of the Indemnitor. The Contractor will defend, indemnify, and hold harmless the Indemnified Parties for the concurrent negligence of the Indemnitor to the extent of the Indemnitor's negligence. The Contractor agrees to being added by the School District as a party to any mediation, arbitration, or litigation with third parties in which the School District alleges indemnification or contribution from an Indemnitor. The Contractor agrees that all of its Subcontractors of any tier will, in the subcontracts, similarly stipulate; in the event any does not, the Contractor shall be liable in place of such Subcontractor(s). To the extent a court or arbitrator strikes any portion of this indemnification provision for any reason, all remaining provisions shall retain their vitality and effect. In claims against any person or entity indemnified under this Section 10.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 10.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. After mutual negotiation of the parties, the Contractor waives immunity as to the School District, the A/E and their consultants only under Title 51 RCW, "Industrial Insurance." If the Contractor does not agree with this waiver, it must provide a written notice to the School District prior to the date for the receipt of bids, or the Contractor will be deemed to have negotiated and waived this immunity. The provisions of this Section shall survive the expiration or termination of this Agreement

10.13 Prevailing Wages.

- 10.13.1 Pursuant to RCW 39.12, no worker, laborer, or mechanic employed in the performance of any part of this Agreement shall be paid less than the "prevailing rate of wage" (in effect as of the date that bids are due) as determined by the Industrial Statistician of the Department of Labor and Industries, ESAC Division, PO Box 44540, Olympia WA 98504-4540, Telephone (360) 902-5335. The schedule of the prevailing wage rates for the locality or localities where this Work will be performed is attached and made a part of this Agreement by reference as though fully set forth herein; if not attached, then the applicable prevailing wages are determined as of the Bid Date or as otherwise prescribed under WAC 296-127-011 for the county in which the Project is located and are available at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>. A copy is available for viewing at the School District's office, and a hard copy will be mailed upon request. To the extent that there is any discrepancy between the attached or provided schedule of prevailing wage rates and the published rates as are applicable under WAC 296-127-011, or if no schedule is attached, then the applicable published rates shall apply at no increase to the Contract Sum. The Contractor shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates. The Industrial Statistician will answer questions relating to prevailing wage data upon request.
- 10.13.2 Pursuant to RCW 39.12.060, in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries, whose decision therein shall be final and conclusive and binding on all parties involved in the dispute.
- 10.13.3 The Contractor shall defend, indemnify and hold the School District harmless, including attorneys' fees, from any violation or alleged violation of RCW 39.12 ("Prevailing Wages on Public Works") and RCW 51 ("Industrial Insurance"), including without limitation RCW 51.12.050, by the Contractor, any Subcontractor of any tier, or any person performing Work on behalf of the Contractor or any Subcontractor of any tier.

10.14 Compliance with the Davis-Bacon Act

- 10.14.1 All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 10.14.2 Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 10.14.3 Additionally, contractors are required to pay wages not less than once a week.

- 10.15 **Compliance with Law.** The Contractor, its employees, Subcontractors of any tier and representatives, shall comply with all applicable laws, ordinances, statutes, rules and regulations, federal and state, county and municipal, and particularly those relating to wages, hours, fair employment practices, non-discrimination, safety and working conditions.
- 10.15.1 Hours of Labor. The Contractor shall comply with all applicable provisions of RCW 49.28.
- 10.15.2 Workers' Right to Know. The Contractor shall comply with RCW 49.70 and WAC 296-62-054 regarding workplace surveys and material safety data sheets for "hazardous" chemicals at the Site.
- 10.16 **Nondiscrimination.**
- 10.16.1 Nondiscrimination Requirement. During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- 10.16.2 Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
- 10.16.3 Default. Notwithstanding any provision to the contrary, Agency may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Agency may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
- 10.16.4 Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Agency for default under this provision.

10.17 **Apprenticeship.** If this project is estimated to cost one million dollars or more (see Section 3.2 of the Agreement), then this Section 10.16 and RCW 39.04.320 shall apply. This Section 10.16 shall not apply and shall have no effect upon Projects that are not estimated to cost one million dollars or more.

10.17.1 Pursuant to RCW 39.04.320, no less than fifteen percent (15%) of the Labor Hours shall be performed by apprentices, unless a different amount is permitted or otherwise required by law. Apprenticeship hours shall be performed by participants in training programs approved by the Washington State Apprenticeship Council.

10.17.2 "Labor Hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" includes hours performed by workers employed by the Contractor and all Subcontractors working on the Project. "Labor hours" does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements of RCW 39.12.

10.17.3 During the term of this Contract, the School District may adjust the apprenticeship labor hour requirement upon its finding or determination that includes:

- .1 A demonstration of lack of availability of apprentices in the geographic area of the Project;
- .2 A disproportionately high ratio of material costs to labor hours that does not make feasible the required minimum levels of apprenticeship participation;
- .3 Demonstration by participating contractors of a good faith effort to comply with the requirements of RCW 39.04.300, 39.04.310 and 39.04.320;
- .4 Small contractors or subcontractors (e.g., small or emerging businesses) would be forced to displace regularly employed members of their workforce;
- .5 The reasonable and necessary requirements of the Contract render apprentice utilization infeasible at the required level (e.g., the number of skilled workers required and/or limitations on the time available to perform the Work preclude utilization of apprentices); or
- .6 Other criteria the School District deems appropriate, which are subject to review by the office of the Governor.

10.17.4 The Contractor shall report apprentice participation and shall submit copies of monthly certified payroll records directly to L&I through the applicable L&I website. Such documents also may be requested by the School District, with any birthdates and social security numbers (and any other sensitive personal information) redacted so as such copies may be used to respond to any public records requests. The reports will include:

- .1 The name of the Project;
- .2 The dollar value of the Project;
- .3 The date of the Contractor's notice to proceed;
- .4 The name of each apprentice and apprentice registration number;
- .5 The number of apprentices and labor hours worked by them, categorized by trade or craft;
- .6 The number of journey level workers and labor hours worked by them, categorized by trade or craft;
- .7 The number, type, and rationale for the exceptions granted; and
- .8 Such other information as L&I may require.

10.17.5 To comply with the changes to RCW 39.04.320 that are effective as of January 1, 2020, the following provisions also apply:

- .1 This Section 3.2 specifies that the 39.04.320 apprenticeship goals should be met;
- .2 The School District shall provide a monetary incentive of One Thousand Dollars for meeting these goals;
- .3 The Contractor shall pay a monetary penalty of One Thousand Dollars for not meeting these goals;
- .4 The School District is not in a position within existing resources to identify an expected cost value to be included in the bid associated with meeting these goals; and
- .5 Contractor and its Subcontractors are not required to exceed these apprenticeship utilization requirements.

10.18 **Records.** The Contractor shall maintain and preserve for at least three years from the date of final payment books, ledgers, records, documents, estimates, bidding documents, correspondence, logs, schedules, electronic data and other evidence relating or pertaining to the costs incurred by the Contractor in connection with or related to the Agreement and/or performance of the Contract ("records") to such extent and in such detail as will properly reflect and fully support compliance with the Contract Documents and with all costs, charges and other amounts of whatever nature for which reimbursement or payment is or may be claimed under the Contract. The Contractor agrees to make available at all reasonable times at the office of the Contractor all such records for inspection, audit and reproduction (including electronic reproduction) by the School District and its representatives. These requirements shall be applicable to each Subcontractor of any tier and included in each Subcontract and purchase order issued with respect to the Work. The

Contractor agrees, on behalf of itself, its representatives, and Subcontractors of any tier and their representatives, that any rights under RCW 42.56 will commence at Final Acceptance, and that the invocation of such rights at any time by the Contractor or a Subcontractor of any tier or any of their representatives shall initiate an equivalent right to disclosures from the Contractor and Subcontractors of any tier for the benefit of the School District. Because of the importance of the access of such records to the School District in the case of a Claim, if the Contractor or any Subcontractor fails to fully comply with the requirements of this section with regard to any Claim, such Claim shall be deemed to be waived.

ARTICLE 11 - SUBCONTRACTORS

- 11.1 A "Subcontractor" is a person or entity that has a direct contract with the Contractor to perform a portion of the Work at the site or to supply materials or equipment. A "Subcontractor of any tier" includes Subcontractors as well as all direct and lower level sub-subcontractors and suppliers.
- 11.2 As soon as practicable and no later than five days after award of the Agreement, the Contractor shall confirm in writing to the School District the names of the Subcontractors for each portion of the Work. The Contractor shall not contract with any Subcontractor to whom the School District has made reasonable and timely objection or which is different from the one listed in conjunction with the bid. Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor to be bound to the Contractor by the terms of the Contract Documents to the extent of the Work to be performed by the Subcontractor and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the School District, and (2) allow to the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.
- 11.3 The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors). The Contractor shall furnish to the School District such releases of liens and Claims and other documents as the School District may request from time to time to evidence such payment (and discharge). The School District may, at its option, withhold payment, in whole or in part, to the Contractor until such documents are so furnished. The Contractor shall defend, indemnify, and hold harmless the School District from any liens, including all expenses and attorneys' fees. Nothing in the Contract Documents shall create any obligation on the part of School District or A/E to pay or to see to the payment of any moneys due any Subcontractor of any tier or other person or entity, except as may otherwise be required by laws and regulations.

ARTICLE 12 - CONSTRUCTION NOT BY THE CONTRACTOR

- 12.1 The School District reserves the right to perform construction or operations related to the Project with the School District's own forces and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to those of the Contract Documents. The Contractor has the responsibility to coordinate its Work with such separate contractors and the School District's own forces.
- 12.2 The Contractor shall afford the School District and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations as required by the Contract Documents.

ARTICLE 13 - CHANGES IN THE WORK

- 13.1 The School District, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions or modifications ("Changes"), and the Contract Sum and Contract Time will be adjusted accordingly. Changes in the Work, the Contract Sum and/or the Contract Time shall be authorized only by written Change Order signed by the School District, the A/E and the Contractor or by written Construction Change Directive signed by the School District and the A/E.
- 13.1.1 Change Orders. A Change Order is a written instrument signed by the School District and the Contractor stating their agreement upon a change in the Work; the itemized amount of the adjustment in the Contract Sum as defined in this Article, if any; and the extent of the adjustment in the Contract Time, if any. Any Change Order submitted to the Owner that does not include itemized costs per 13.2.1-13.2.6 and itemized Fees as allowed in 13.2.6 is not acceptable and shall be a basis for rejection by the Owner.
- 13.1.2 Construction Change Directives. A Construction Change Directive is a written order prepared and signed by the School District that directs a change in the Work and states a proposed basis for any adjustment in the Contract Sum and/or Contract Time. It is used in the absence of total agreement on the terms of a Change Order. The Contractor shall promptly proceed with the change in the Work described in the Construction Change Directive. As soon as possible, and within seven days of receipt, the Contractor shall advise the School District in writing of the Contractor's agreement or disagreement with the cost or the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- 13.2 If the parties cannot agree on the cost or credit to the School District from a Change in the Work, the Contractor shall keep and present, in such form as the School District may prescribe, an itemized accounting together with supporting data. The total cost of any Change or Claim shall be limited to the reasonable value of the following:
- 13.2.1 Direct labor costs. The effective W.D.O.L. & I. prevailing hourly wage for the laborers, journeymen, and foremen performing and/or directly supervising the Changed Work on the site. The premium portion of overtime wages may not be included unless pre-approved in writing by the School District. The hourly cost shall be based upon basic wages and mandatory fringe benefits and workers' insurances.
- 13.2.2 Direct material costs. An itemization of the quantity of materials necessary to perform the Change in the Work and the net cost therefor.
- 13.2.3 Construction equipment usage costs. An itemization of the actual length of time construction equipment appropriate for the Work will be used solely on the Change in the Work at the Site times the lower of the actual rental receipt or applicable current state, NECA, EquipmentWatch, or MCA rental cost. Actual, reasonable mobilization costs are permitted if the equipment is brought to the Site solely for the Change in the Work. The rate for equipment necessarily standing by for future use on the Work shall be 50% of the rate established above.

- 13.2.4 Cost of any change in insurance or bond premium. Upon request, the Contractor shall provide the School District with supporting documentation.
- 13.2.5 Subcontractor costs. Payments the Contractor makes to Subcontractors for Changed Work performed by Subcontractors of any tier. The cost of Work for Subcontractors of any tier shall be determined in the same manner as prescribed in this Section 13.2.
- 13.2.6 Fee. The allowance for all combined overhead, profit, and other costs, including all office, home office, extended and site overhead (including project manager, project engineer, superintendent and general foreman time), and all delay and including impact costs of any kind, added to the total cost to the School District of any Change Order or any Claim for additional work or extra payment of any kind on this Project shall be strictly limited to the following schedule:\
- .1 For the Contractor, for any materials or work performed by the Contractor's own forces, 12% of the cost.
 - .2 For the Contractor, for materials or work performed by its Subcontractor, 7% of the amount due the Subcontractor.
 - .3 For each Subcontractor (including lower tier subcontractor involved), for any materials or work performed by its own forces, 12% of the cost.
 - .4 For each Subcontractor, for materials or work performed by its subcontractors of any lower tier, 6% of the amount due the sub-subcontractor.
 - .5 The cost to which the Fee is to be applied shall be determined in accordance with Section 13.2.1-4.

13.3 **Claims for Concealed or Unknown Conditions.** If conditions unknown to the Contractor are encountered at the site that are (1) concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found and generally recognized as inherent in activities of the character provided for in the Contract Documents, then the Contractor shall give written notice to the School District promptly before conditions are disturbed and in no event later than seven days after the first observance on the conditions. Any Claim arising from such condition shall be made in accordance with the dispute resolution procedures of Article 21.

13.4 **Claims for Consequential Damages.** The Contractor and School District waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes without limitation:

- 13.4.1 damages incurred by the School District for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- 13.4.2 damages incurred by the Contractor for principal and home office overhead and expenses including without limitation the compensation of personnel stationed there, for losses of financing, business and reputation, for losses on other projects, for loss of profit, and for interest or financing costs.

This mutual waiver is applicable to all consequential damages of any cause, including without limitation due to either party's termination in accordance with Article 20. Nothing contained in this Section 13.4 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

- 13.5 The Contractor (including Subcontractors of any tier) shall not in any event be entitled to damages arising out of actual or alleged loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant underrun; trade stacking; reassignment of workers; concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics; ripple; season change; extended overhead; profit upon damages for delay; impact damages; or similar damages.

ARTICLE 14 - TIME

- 14.1 If, through no fault of the Contractor or a Subcontractor of any tier, the Work is delayed by changes ordered in the Work, unanticipated general labor disputes, fire, unforeseeable delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any other causes beyond the Contractor's control, then the Contract Time shall be extended by Change Order to the extent the critical path is affected. The Contractor is entitled to damages for delay only if the School District's actions or inactions were the actual, substantial cause of the delay and if the Contractor could not have reasonably avoided the delay by the exercise of due diligence. The Contractor is not entitled to an increase in the Contract Time or Contract Sum if a delay was caused by the Contractor, a Subcontractor of any tier, or anyone acting on behalf of any of them.
- 14.2 The timely completion of this Project is essential to the School District. The School District will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time; however, it may be difficult if not impossible to determine the amount of such damages. Consequently, the Agreement may include provisions for liquidated damages, which are not affected by partial completion, occupancy, or beneficial occupancy. If this Agreement does not include liquidated damages, then the School District may pursue its actual damages resulting from delay.

ARTICLE 15 - PAYMENTS AND COMPLETION

- 15.1 **Progress Payments.** Payments shall be made as provided in Articles 3 and 4 of this Agreement. If Progress payments are specified, they will be made monthly for Work duly approved and performed during the calendar month preceding the application according to the following procedure.
- 15.1.1 **Draft Application.** Within the first three days of each month, the Contractor shall submit to the A/E a report on the current progress of the Work as compared to the Contractor's CPM Construction Schedule, an updated Construction Schedule, and a draft, itemized application for payment for Work performed during the prior calendar month on a State of Washington Application for Payment on Contract form approved by the School District. This shall not constitute a payment request. The Contractor, the A/E and the School District shall meet within the next ten days and confer regarding the current progress of the Work and the amount of payment to which the Contractor is entitled. The A/E or the School District may request the Contractor to provide data substantiating the Contractor's right to payment as the School District or the A/E may require, such as copies of requisitions from Subcontractors of any tier, lien releases, and certified payroll records, and reflecting retainage as

provided elsewhere in the Contract Documents. The Contractor shall not be entitled to make a payment request, nor is any payment due the Contractor, until such data is furnished.

15.1.2 **Payment Request.** After the Contractor and the School District have met and conferred regarding the draft application, and the Contractor has furnished all data requested, the Contractor may submit no later than the 10th day of the month a payment request in the agreed-upon amount, in the form of a notarized, itemized Application for Payment for Work performed during the prior calendar month on a form supplied or approved by School District. Among other things, the Application shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent to pay prevailing wages on file with the School District and that all payments due Subcontractors from the School District's prior payments have been made. The submission of this Application constitutes a certification that the Work is current on the Progress Schedule, unless otherwise noted on the Application. If the Contractor believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, the Contractor may, also by the 10th day of the month, submit to the School District a separate written payment request specifying the exact additional amount due, the category in the Schedule of Values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due.

15.1.3 **Payments to Subcontractors.** No payment request shall include amounts the Contractor does not intend to pay to a Subcontractor. If, after making a request for payment but before paying a Subcontractor for its performance covered by the payment request, the Contractor discovers that part or all of the payment otherwise due to the Subcontractor is subject to withholding from the Subcontractor for unsatisfactory performance or other reasons, the Contractor may withhold the amount as allowed under the subcontract, but it shall give the Subcontractor and the School District written notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the Subcontractor payment, and pay the Subcontractor within *eight working days* after the Subcontractor satisfactorily completes the remedial action identified in the notice.

15.1.4 The School District shall make progress payments within 30 days of its receipt of the approved payment request, so long as they are timely received.

15.2 **Prevailing Wages.** Pursuant to RCW 39.12, the Contractor will not receive any payment until the Contractor and all Subcontractors have submitted a "Statement of Intent to Pay Prevailing Wage" and any applicable "Affidavit of Wages Paid" to the Washington State Department of Labor and Industries. Prior to release of the retainage Contractor and each subcontractor shall electronically file an Affidavit of Wages Paid with the Washington State Department of Labor and Industries complying with the requirements of RCW 39.12.040. The statement must have the approval of the Industrial Statistician of the Department of Labor and Industries before payment can be made. The Contractor and the respective Subcontractors shall pay all fees required by the Department of Labor and Industries, including fees for the approval of the "Statement of Intent to Pay Prevailing Wages." Approved copies of the "Statement of Intent to Pay Prevailing Wages" must be posted where workers can easily read them

- 15.3 **Withheld Payment.** Payments may be withheld on account of (1) defective Work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment, (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum, (5) damage to the School District or another contractor, (6) reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, (7) failure to carry out the Work in accordance with the Contract Documents, or (8) liquidated damages. When the School District intends to withhold all or part of a payment for unsatisfactory performance, the School District will provide the Contractor, within *eight working days* after the School District's receipt of the Application for Payment, written notification of the reasons that all or part of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.
- 15.4 **Substantial Completion.**
- 15.4.1 When the Contractor believes that the Work is Substantially Complete, it shall notify the School District in writing. When the School District agrees, it will issue a Certificate of Substantial Completion. Substantial Completion is the stage in the progress of the Work when the construction is sufficiently complete, in accordance with the Contract Documents, so the School District can fully utilize the Work (or a designated portion) for its intended use. All Work other than incidental corrective or punch list work and final cleaning shall have been completed. The Work is not Substantially Complete if all systems and parts affected by the Work are not usable. The fact that the School District may use or occupy the Work or designated portion thereof does not indicate that the Work is Substantially Complete, nor does such occupation toll or change any liquidated damages due the School District.
- 15.4.2 Immediately before partial or complete occupancy, the School District will schedule an inspection tour of the area to be occupied. A representative of the School District, A/E and Contractor will jointly tour the area and record items still remaining to be finished and/or corrected. The Contractor shall supply and install any items missed by the inspection but required or necessary for Final Completion as a part of the Contract Sum, notwithstanding their not being recorded during the inspection tour.
- 15.5 **Final Payment.** Pursuant to RCW 60.28, completion of the contract Work shall occur and final payment shall become due after the Contractor has been notified that the Work has been concluded and submits the items listed below to the School District, any required occupancy permit has been issued and the School District's Board of Directors formally accepts the Project. Before Final Acceptance, the Contractor must have submitted the following to the School District:
- 15.5.1 An affidavit that all payrolls, Subcontractors, bills for materials and equipment, and other indebtedness connected with the Work for which the School District or its property might in any way be responsible or encumbered, have been paid or otherwise satisfied,
- 15.5.2 consent of surety to final payment,
- 15.5.3 certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least *30 days'* prior written notice has been given to the School District,

- 15.5.4 a written statement that the Contractor knows of no substantial reason why the insurance will not be renewable to cover the period required by the Contract Documents,
- 15.5.5 other data establishing payment or satisfaction of or protection (satisfactory to the School District) against all obligations, such as receipts, releases and waivers of liens arising out of the Agreement, satisfactorily demonstrating to the School District that the claims of Subcontractors, material suppliers, and laborers who have filed claims have been paid,
- 15.5.6 pursuant to RCW 39.12.040, an "Affidavit of Wages Paid" from the Contractor and from each Subcontractor certified by the Industrial Statistician of the Department of Labor and Industries, with fees paid by the Contractor or Subcontractor,
- 15.5.7 a certified statement that the Contractor has closed all necessary permits or otherwise met the requirements of all governing jurisdictions related to this Project (including, without limitation, city/county building departments, health districts and utility districts; attach a copy of each of these closed or signed-off permits),
- 15.5.8 all warranties, guarantees, certificates, spare parts, specified excess material, and other documents or items required by the Contract Documents, and
- 15.5.9 a hard copy of as-built drawings and specifications, delivered in a clear, clean and legible condition.

If any Subcontractor of any tier refuses to furnish a release or waiver required by the School District, the School District may retain such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be no less than 150% of the claimed amount. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the School District all moneys that the School District may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Retainage shall be paid pursuant to RCW 60.28 and after the School District has verified certificates from the Department of Revenue, the Department of Labor and Industries and, pursuant to RCW 50.24, a certificate from the Department of Employment Security.

15.6 **Waivers.**

- 15.6.1 Final Payment by School District. The making of final payment shall constitute a waiver of claims by the School District except those arising from (1) claims or encumbrances arising out of the Agreement and unsettled; (2) failure of the Work to comply with the requirements of the Contract Documents; or (3) terms of warranties required by the Contract Documents or law.
- 15.6.2 Final Payment to Contractor. Acceptance of final payment by the Contractor shall constitute a waiver of Claims except those previously made in writing and identified in writing as unsettled on the final Application for Payment.
- 15.6.3 Change Orders. The execution of a Change Order shall constitute a waiver of Claims by the Contractor arising out of the Work to be performed or deleted pursuant to the Change Order, except as specifically described in the Change Order. If the Contractor adds to a

Change Order or any other document a reservation of rights that has not been initialed by the School District, all the amounts previously agreed shall be considered disputed and not yet payable unless the costs are re-negotiated or the reservation is withdrawn or changed in a manner satisfactory to and initialed by the School District. If the School District makes payment for a Change Order or an Application for Payment that contains a reservation of rights not initialed by the School District to indicate agreement with the reservation, and if the Contractor negotiates the check for such payment or otherwise accepts the payment, then the reservation of rights shall be deemed waived, withdrawn, and of no effect.

15.7 **Retainage.**

15.7.1 Progress Payments. If progress payments are to be made to the Contractor:

- .1 Pursuant to RCW 60.28, the School District will reserve 5% retainage from the moneys the Contractor earns on estimates during the progress of the Work, to be retained as a trust fund for the protection and payment of the claims of any person arising under the Agreement and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from the Contractor.
- .2 The moneys reserved may, at the option of the Contractor, be (1) retained in a fund by the School District until *45 days* following Final Acceptance; or (2) deposited by the School District in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until *45 days* following Final Acceptance, with interest to the Contractor; or (3) placed in escrow with a bank or trust company until *45 days* following the Final Acceptance, by the School District's joint check to the bank or trust company and the Contractor, to be converted into bonds and securities chosen by the Contractor, approved by the School District, and held in escrow, with interest on the bonds and securities paid to the Contractor as it accrues.
- .3 Contractor may retain payment of not more than 5% from the moneys earned by any Subcontractor, provided that the Contractor pays interest to the Subcontractor at the same interest rate it receives from its reserved funds.

15.8 **Warranty of Title.** The Contractor warrants and guarantees that title to Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the School District no later than the time of payment free and clear of liens. The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors). The Contractor shall furnish to the School District such releases of claims and other documents as may be requested by the School District from time to time to evidence such payment (and discharge). The School District may, at its option, withhold payment, in whole or in part, to the Contractor until such documents are so furnished. The Contractor shall indemnify and hold harmless the School District from any liens, including all expenses and attorneys' fees.

ARTICLE 16 - PROTECTION OF PERSONS AND PROPERTY

- 16.1 The Contractor shall have the right to control and shall be solely responsible for, and neither the School District nor the A/E shall have responsibility for, all aspects of safety, including initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Agreement. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein; and (3) other property at the site or adjacent thereto. The Contractor shall maintain the Work site and perform the Work in a manner that meets statutory and common-law requirements for the provision of a safe place to work. This requirement shall apply continuously and not be limited to working hours.
- 16.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by the Contractor, a Subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of the School District or A/E or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor or a Subcontractor of any tier. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 10.12.
- 16.3 The Contractor shall not be required to perform without consent any Work relating to asbestos or polychlorinated biphenyl ("PCB") unless specifically required by the Contract Documents.
- 16.4 The Contractor shall bear the risk of any loss, damage or destruction of its own property, including without limitation its tools, trailers and equipment, whether rented or owned, to the extent that they will not be incorporated in the Work. Any insurance provided by the School District will not cover any such loss, damage or destruction.
- 16.5 If the scope of the Work requires the Contractor to perform Work relating to hazardous materials, the Contractor shall be responsible to take all reasonable precautions to prevent foreseeable bodily injury or death resulting from such materials or substances, and to dispose of such materials as required by the Contract Documents and all applicable state and federal laws and regulations. The Contractor shall defend, indemnify, and hold harmless the School District, its consultants, the A/E, and their respective agents, employees, consultants, successors and assigns from and against any and all claims to the extent of the Contractor's failure to abide by such Contract Documents and all applicable state and federal laws and regulations.

ARTICLE 17 - INSURANCE AND BONDS

17.1 Contractor's Liability Insurance.

- 17.1.1 The Contractor shall purchase from and maintain during the life of this Agreement, at its own cost in a company or companies admitted to do business in the State of Washington, possessing a Best's policy holder's rating of A- or better and a financial rating of no less than VIII, and reasonably acceptable to the School District, an occurrence-based Commercial General Liability Insurance Policy which shall provide bodily injury and property damage liability on the Contractor's operations, including its Subcontractors of any tier; owned, non-owned and hired vehicles; and on work the Contractor may subcontract or sublet to others; and on the indemnity provisions of this Agreement. This insurance will name the School District, the A/E, and their employees as additional insureds per Additional Insured Owner's (Form B) for Work performed under this Agreement. The Contractor's policy shall be designated primary coverage for both defense and indemnity, and any School District policies excess. Such limits of liability insurance shall have per project general aggregate provisions and shall not be less than the following:

Commercial General Liability

Each Occurrence	\$1,000,000
Damage to Rented Premises	\$100,000
Medical Expenditures	\$5,000
Personal and Advertising Injury.....	\$1,000,000
General Aggregate.....	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000

Automobile Liability (Any Owned)..... \$1,000,000

Excess/Umbrella Liability Coverage – Each Occurrence..... \$2,000,000

Workers' Compensation Statutory

Employer's Liability

Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- 17.1.2 The insurance described above shall include coverage for underground, collapse and explosion exposures.
- 17.1.3 In addition, the Contractor shall purchase and maintain insurance for claims under workers' compensation (industrial insurance), disability benefit and other similar employee benefit acts in the State statutory amount and Employer's Liability with coverage of at least \$250,000/\$500,000.
- 17.1.4 Before the School District executes the Agreement, the Contractor shall furnish the School District with Certificates of Insurance, in duplicate, as evidence of all insurance required by the Contract Documents. All policies and certificates must be signed copies. Coverages afforded under the policies shall not be materially altered, allowed to expire or

canceled without the Contractor first giving 45 days written notice by certified mail to the School District. The Contractor shall furnish to the School District copies of any subsequently issued endorsements amending, modifying, altering, or restricting coverage of limits.

- 17.1.5 Coverage shall be maintained without interruption from the date of commencement of the Work until the date of Final Acceptance, except for any coverage required to be maintained after Final Acceptance. Completed operations coverage, including additional insured completed operations, shall remain in force for three years after Final Acceptance.
- 17.1.6 If the School District is damaged by the failure of the Contractor to maintain any of the above insurance or to so notify the School District, then the Contractor shall bear all costs properly attributable thereto. The School District may withhold payment pending receipt of all certificates of insurance. Failure to withhold payment shall not constitute a waiver.
- 17.1.7 The School District's specification or approval of the insurance in this Agreement or of its amount shall not relieve or decrease the liability of the Contractor under the Contract Documents or otherwise. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. The Contractor may, at its expense, purchase larger coverage amounts or additional insurance.

17.2 Property Insurance.

- 17.2.1 The requirements for property insurance are addressed in Article 6 above.

17.3 Waivers of Subrogation.

- 17.3.1 The School District and the Contractor waive all rights against each other and any of their subcontractors of any tier, the A/E, their consultants, separate contractors described in Article 12, and any of their respective agents and employees, for damages caused by fire or other causes of loss to the extent covered by the property insurance obtained pursuant to Articles 6 and 17.2, except such rights as they have to proceeds of such insurance held by the School District as fiduciary. The School District does not waive any subrogation rights to the extent of its property insurance on structures or portions of structures that do not comprise the Work. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

17.4 Payment and Performance Bond.

- 17.4.1 Pursuant to RCW 39.08, the Contractor is required to submit payment and performance bonds secured from a surety company licensed to do business in the State of Washington. The Contractor shall pay for the bonds in the full amount of the Contract Sum plus sales tax. The Contractor shall deliver evidence of its bondability to the School District within five days of bid opening. Before the School District executes the Agreement, the Contractor shall deliver the original bond to the School District and one copy to the A/E. The School District may decline to enter into the contract if evidence of bondability is not received, and the School

District may withhold its notice to proceed and/or withhold payment to the contractor until such surety bonds are received.

ARTICLE 18 - CORRECTION OF WORK

- 18.1 The Contractor shall promptly and within no more than *fourteen days* of notice from the School District or A/E correct Work rejected or failing to conform to the requirements of the Contract Documents at any time through a period of one year from the date of Substantial Completion of the Agreement or by terms of a longer manufacturer's warranty or an applicable special warranty required by the Contract Documents. The provisions of this Article apply to Work done by Subcontractors of any tier as well as to Work done by direct employees of the Contractor.
- 18.2 If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents or fails to carry out the Work in accordance with the Contract Documents, the School District, by a written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- 18.3 Nothing contained in this Article shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described above relates only to the specific obligation of the Contractor to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

ARTICLE 19 - MISCELLANEOUS PROVISIONS

- 19.1 **Applicable Law and Venue.** The Agreement shall be governed by the laws of the State of Washington, without regard to its choice of law provisions. The exclusive venue for any litigation regarding this Agreement shall be in the Superior Court in the county in which the Project is located.
- 19.2 **Statutes.** The Contractor shall abide by the provisions of all applicable Washington statutes. The statutes referenced in the Contract Documents are not meant to be a complete list and should not be relied upon as such.
- 19.3 **Contractor Registration and Related Requirements.** Pursuant to RCW 39.06, the Contractor shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27. The Contractor shall: have a current state unified business identifier number; have industrial insurance coverage for the Contractor's employees working in Washington as required in Title 51 RCW; have an employment security department number as required in Title 50 RCW; have a state excise tax registration number as required in Title 82 RCW, and; not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations). The Contractor must submit its Wage Prevention Certification prior to the School District executing this Agreement.
- 19.4 **Law Against Discrimination.** Contractor shall comply with pertinent statutory provisions relating to public works of RCW 49.60.
- 19.5 **Provisions for Aged and Handicapped Persons.** Contractor shall comply with pertinent statutory provisions relating to public works of RCW 70.92.
- 19.6 **Safety Standards.** Contractor shall comply with pertinent provisions of Chapter 296-155 WAC, "Safety Standards for Construction Work."

- 19.7 **Unemployment Compensation.** Pursuant to RCW 50.24 in general and RCW 50.24.130 in particular, the Contractor shall pay contributions for wages for personal services performed under this Agreement or arrange for a bond acceptable to the commissioner.
- 19.8 **Drug-Free Workplace.** The Contractor and all Subcontractors shall fully comply with all applicable federal, state, and local laws and regulations regarding drug-free workplace, including the Drug-Free Workplace Act of 1988. Any person not fit for duty for any reason, including the use of alcohol, controlled substances, or drugs, shall immediately be removed from the Work.
- 19.9 **Tobacco-Free Environment.** Smoking or use of any kind of lighted pipe, cigar, cigarette or any other lighted smoking equipment, material or smokeless tobacco products is prohibited on all School District property.
- 19.10 **Asbestos Removal.** To the extent this Project involves asbestos removal, the Contractor shall comply with RCW 49.26 and any provisions of the Washington Administrative Code promulgated thereunder.
- 19.11 **Assignment.** The Contractor shall not let, assign or transfer this Agreement, or any interest in it or part of it, without the written consent of the School District.
- 19.12 **Weapons.** The Contractor and its employees, agents, and Subcontractors of any tier shall not bring onto the Project site or onto any School District property any firearm or any other type of weapon described in either RCW 9.41.280(1) or RCW 9.41.250. Any person violating this Section shall immediately be removed from the Work, and such a violation shall be grounds for a termination of this Agreement for cause at the School District's discretion.
- 19.13 **Contaminated Properties.** To the extent this Project involves the remediation of contaminated property, the Contractor shall comply with RCW 64.44 and 70.105D and any provisions of the Washington Administrative Code promulgated thereunder, including the use of authorized contractors as provided in RCW 64.44.060.
- 19.14 **Disposal of Materials.** To the extent this Project involves the remediation of contaminated property, the Contractor shall comply with all applicable requirements of RCW 70.95 and any provisions of the Washington Administrative Code promulgated thereunder.
- 19.15 **Compliance with the Copeland "Anti-Kickback" Act**
- 19.15.1 *Contractor.* The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- 19.15.2 *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- 19.15.3 *Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

19.16 Compliance with the Contract Work Hours and Safety Standards Act

- 19.16.1 *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 19.16.2 *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.
- 19.16.3 *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in this section.
- 19.16.4 *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

19.17 Clean Air Act

- 19.17.1 The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

19.17.2 The contractor agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

19.17.3 The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

19.18 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352

19.18.1 Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

19.19 Additional Federal Requirements

19.19.1 C.F.R. § 200.316

19.19.2 C.F.R. § 200.322

19.19.3 C.F.R. § 200.323

ARTICLE 20 - TERMINATION OF THE CONTRACT

20.1 **Termination for Cause by Contractor.** If the School District fails to make payment for a period of *60 days* through no fault of the Contractor, the Contractor may, upon *seven additional days'* written notice to the School District, terminate the Agreement and recover from the School District payment for all Work properly executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including Fees applicable thereto.

20.2 **Termination for Cause by School District.** The School District may, upon *seven days'* written notice to the Contractor, terminate (without prejudice to any right or remedy of the School District) the whole or any portion of the Work for cause, including but not limited to the following circumstances:

20.2.1 the Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure the completion of the Work within the Contract Time;

20.2.2 the Contractor is in material default of or materially breaches any provisions of this Agreement;

20.2.3 the Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency;

- 20.2.4 the Contractor fails to supply a sufficient number of properly skilled workers or proper materials;
- 20.2.5 the Contractor fails to make prompt payment to Subcontractors or for materials or labor;
- 20.2.6 the Contractor materially disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or
- 20.2.7 the Contractor fails to comply with the provisions of RCW 28A.400.330 by permitting a worker on the Project having contact with children who has been convicted of or pled guilty to a felony crime involving children as described in Section 10.3.

20.3 **Termination for Convenience by School District.** The School District may, at any time upon *seven days'* written notice to the Contractor, terminate (without prejudice to any right or remedy of the School District) the whole or any portion of the Work for the convenience of the School District. The School District shall be liable to Contractor only for those costs reimbursable to Contractor in accordance with the following.

- 20.3.1 The amount due under Articles 4 and 15 of this Agreement for the performance of the Work actually performed; and
- 20.3.2 Other pre-approved costs, consistent with Section 13.2, necessary and reasonably incurred in connection with the termination of Work.

The total sum to be paid to the Contractor under this Section 20.3 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made.

20.4 **Effects of Termination.**

- 20.4.1 Unless the School District directs otherwise, after receipt of a Notice of Termination from the School District pursuant to Sections 20.2 or 20.3, the Contractor shall promptly:
 - .1 stop Work under the Agreement on the date and as specified in the Notice of Termination;
 - .2 place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of any portion of the Work that is not terminated;
 - .3 procure cancellation of all orders and subcontracts, upon terms acceptable to the School District, to the extent that they relate to the performance of Work terminated;
 - .4 assign to the School District all of the right, title and interest of the Contractor under all orders and subcontracts, in which case the School District shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - .5 with the School District's approval, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts not assigned to the School District;

- .6 transfer title and deliver to the entity or entities designated by the School District the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated, and the completed or partially completed plans, drawings, information and other property related to the Work;
 - .7 use its best efforts to sell any property of the types referred to in Section 20.4.1.6. The Contractor may acquire any such property under the conditions prescribed by and at a price or prices approved by the School District, and the proceeds of any such transfer or disposition may be applied in reduction of any payments to be made by the School District to the Contractor;
 - .8 take such action as may be necessary or as directed by the School District to preserve and protect the Work and property related to this Project in the possession of the Contractor in which the School District has an interest; and
 - .9 continue performance only to the extent not terminated.
- 20.4.2 In arriving at any amount due the Contractor after termination, the following deductions shall be made:
- .1 all unliquidated advance or other prior payments on account made to the Contractor applicable to the terminated portion of the Agreement;
 - .2 any claim which the School District may have against the Contractor;
 - .3 an amount necessary to protect the School District against outstanding or potential liens or claims; and
 - .4 the agreed price for or the proceeds of sale of any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Section 20.4.1.7, and not otherwise recovered by or credited to the School District.
- 20.4.3 If (and only if) the termination pursuant to Section 20.3 is partial, the Contractor may file a Claim for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement. The Contractor must assert any Claim for an equitable adjustment under this subsection within *twenty-one days* from the effective date of the Termination.
- 20.4.4 The Contractor shall refund to the School District any amounts the School District paid to the Contractor in excess of costs reimbursable under Section 20.3.
- 20.4.5 The damages and relief from termination by the School District specifically provided in Article 20 shall be the Contractor's sole entitlement in the event of termination.

End of Section



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Name/contact information of insurance agency/broker shall be indicated here.	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL: ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Name/contact information of the vendor/contractor shall be indicated here	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X	Insurance Broker to complete this section			EACH OCCURRENCE \$ 1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000.00 MED EXP (Any one person) \$ 5,000.00 PERSONAL & ADV INJURY \$ 1,000,000.00 GENERAL AGGREGATE \$ 2,000,000.00 PRODUCTS - COMP/OP AGG \$ 2,000,000.00 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	X	Insurance Broker to complete this section			COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000.00 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X	Insurance Broker to complete this section			EACH OCCURRENCE \$ 2,000,000.00 AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	Insurance Broker to complete this section			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000.00 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000.00 E.L. DISEASE - POLICY LIMIT \$ 1,000,000.00
	Builder's Risk/Installation Floater	X	Contractors: For construction/remodeling projects over \$35,000, please provide Builder's Risk coverage in an amount equal to project value		Enter Contract Dollar Value Here	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Shall be named here as additional insured on primary and non-contributory basis:

Federal Way Public Schools
33330 8th Avenue S
Federal Way, WA 98003

CERTIFICATE HOLDER**CANCELLATION**

Shall be named here as:
Federal Way Public Schools
33330 8th Avenue S
Federal Way, WA 98003

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE