



**FEDERAL WAY  
PUBLIC SCHOOLS**

# **FEDERAL WAY PUBLIC SCHOOLS BID DOCUMENTS**

*Project Name*

Decatur High School Welding Shop  
Contract No. 2024-12-WS

## **Project Manual**

Federal Way Public Schools  
Federal Way, WA  
January 9, 2025

**OWNER**

Company: Federal Way Public Schools  
Address: 1211 S. 332<sup>nd</sup> Street  
Federal Way, WA 98003  
Contact: Stephen Nutt, Project Manager  
Email: snutt@fwps.org  
Phone #: (253)261-5506

**ENGINEER**

Company: BCE Engineers  
Address: 6021 12<sup>th</sup> St. E., Suite 200  
Fife, WA 98424  
Contact: Michael Cozart, Project Engineer  
Email: mlcozart@transystems.com  
Phone #: (253)922-0446

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### **DIVISION 01** - General Requirements

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#### **Attachments:**

- Contractor Certification
- Electrical and Mechanical Plans
- e-Builder Bidding Instructions
- Contract Example
- Certificate of Insurance Example

END OF SECTION

**BName of Project:** Decatur High School Welding Shop  
2800 SW 320<sup>th</sup> St  
Federal Way, WA 98023

**Owner:** Federal Way Public Schools  
1211 S. 332<sup>nd</sup> St.  
Federal Way, WA 98003  
Contact: Stephen Nutt, Project Manager  
Email: [snutt@fwps.org](mailto:snutt@fwps.org)  
Phone: (253)261-5506

**Engineer:** BCE Engineers  
6021 12<sup>th</sup> St. E., Suite 200  
Fife, WA 98424  
Contact: Michael Cozart, Project Engineer  
Email: [mlcozart@transystems.com](mailto:mlcozart@transystems.com)  
Phone: (253)922-0446

**Description of Work:** Work may be generally described as:

1. HVAC/Plumbing  
New ventilation system for the welding area, including replacement of the existing downdraft exhaust fan with a new rooftop fan and exhaust point of use welding fume filters. The controls for the new exhaust fan will require integration into the existing building digital control system to operate on the school's schedule. Provide copper piping for the compressed air system. Compressed air piping will be extended from the existing system in the adjacent room.
2. Electrical  
Provide new transformer and panel to serve the new welding area and equipment. The transformer to be served from existing distribution panel in the adjacent room. Provide connections to the welding booths and mechanical equipment.

**Estimated Cost:** Between \$100,000 - \$150,000

**Pre-Bid Conference:** A pre-bid conference will be held on Friday, January 24, 2025 at 1:00 p.m. at the project site. All companies intending to bid are encouraged to have an employee of the company attend and identify themselves and the company on the sign-in sheet.

**Bid Submittal:** Bids will be issued and received via e-Builder, an on-line bidding system.

Bids will be received up to 2:00 PM, Monday, February 3, 2025. Bids received after the date and time stated above will not receive consideration.

- Bid Opening:** Bids will be opened by Owner at the date and hour above stated. This *will not* be a public opening. Bid results will be available via e-Builder or requests for results may be emailed 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 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/>.
- Bid Documents:** Bid Documents are available through e-Builder.
- Right to Reject:** The Owner reserves the right to reject any and all bids, to waive informalities and irregularities in the bidding, and to accept bids which are considered to be in the best interests of the Owner.
- Withdrawal of Bid:** Bidders may not withdraw bids after time set for the Bid Opening, unless Award of Contract is delayed for a period of exceeding 45 days.
- Published:** Friday, January 17, 2025

## 00 21 13 – 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 e-Builder is the Owner's construction software and is utilized for bid management of Small Works projects.
- 1.11 The "Owner" is Federal Way Public Schools No. 210.
- 1.12 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:
- 1.12.1 The ability, capacity, and skill to perform the Contract;
  - 1.12.2 The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
  - 1.12.3 Whether the Bidder can perform the Contract within the time specified;
  - 1.12.4 The previous and existing compliance by the Bidder with laws relating to the Contract;
  - 1.12.5 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;
  - 1.12.6 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;
  - 1.12.7 The designated Superintendent shall have a minimum of five (5) years of successful supervision of projects of similar scope and complexity;
  - 1.12.8 Any other qualifications required by the Contract Documents or Bidding Documents; and
  - 1.12.9 Such other information as may be secured having a bearing on the decision to award the contract.
- 1.13 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.
- 1.14 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 **Questions/Clarifications.** Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a request via e-Builder which shall reach the Owner at least two (2) calendar days prior to the date for receipt of Bids.
- 3.2.4 **Addenda.** Any interpretation, correction or change of the Bidding Documents will be made by Addendum via e-Builder. 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 via e-Builder 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 set forth in an Addendum via e-Builder. 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 **e-Builder.** All Addenda will be available via e-Builder with notice to those bidders who have registered with e-Builder.

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 (including any required attachments) shall be submitted via e-Builder. No oral, email or telephonic responses or modifications will be considered to be Bids.

4.1.2 **Entries on the Bid Form.** All blanks on the e-Builder 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 into e-Builder 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 via e-Builder.

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 via e-Builder.
- 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: “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.

## **ARTICLE 11 - POSSIBLE TRENCH EXCAVATION SAFETY PROVISIONS**

- 11.1.1 To ensure that the Bidder agrees to comply with relevant trenching safety requirements of RCW 39.04.180 and RCW 49.17, the Base Bid may include the cost of any required trenching. The Bidder shall enter in the blank provided (if any) on the Bid form the dollar amount the Bidder has included in its Base Bid for any work requiring trenching that will exceed a depth of four feet. If trench excavation safety provisions do not pertain to the Project, the Bidder should enter "N.A." or "Not Applicable" in the blank (if any) on the bid form.

**END OF SECTION**

## **SECTION 00 42 50 – BIDDER'S CHECKLIST**

This list is only partial and is prepared for the Contractor's convenience. This list shall not be construed to alleviate the Contractor of formalities and requirements of the bidding documents.

### REVIEW

1. Bid documents.
2. Existing site conditions.
3. Addenda.

### SUBMIT VIA E-BUILDER

1. Bid Form
2. Contractor Certification

END OF BIDDER CHECK LIST



**01 11 00 – SUMMARY OF WORK****PART 1 - GENERAL**1.01 *SUMMARY*A. Section Includes

1. Project Information
2. Work covered by Contract Documents
3. Owner-furnished, Contractor-installed (OFICI) products
4. Contractor's use of site and premises
5. Coordination with occupants
6. Work restrictions
7. Specifications and Drawing conventions

1.02 *PROJECT INFORMATION*A. Project: Decatur High School Welding Shop

1. 2800 SW 320<sup>th</sup> St
2. Federal Way, WA 98023

B. Owner: Federal Way Public Schools

1. 1211 S. 332<sup>nd</sup> St.
2. Federal way, WA 98003

C. Engineer: BCE Engineers

1. 6021 12<sup>th</sup> St. E., Suite 200
2. Fife, WA 98424

1.03 *WORK COVERED BY CONTRACT DOCUMENTS*A. Welding room tenant improvements:

1. **HVAC:** Welding room tenant improvement requires revisions to the ventilation system for the spaces new requirements. Replacement of the existing downdraft exhaust fan with an up-blast rooftop fan will permit code required ventilation during occupied hours. The rooftop exhaust fan will require a curb adaptor and minimal roof work. Heating and cooling is transferred into the space through a transfer grille. In order to minimize the total makeup air required and exhaust point of use welding fume filters

will be utilized. Each filter will have a telescoping hose and remote control for on and off operation by occupants.

2. **Controls:** Controls for the new exhaust fan will require integration into the building digital control system to operate on the school's schedule.
3. **Plumbing:** Plumbing piping is copper Type K for the compressed air system. Compressed air piping into the space shall be provided with zone isolation and filters with a quick connect at each welding station. A general use drop will be located for cleanup or other purposes required by occupants.
4. **Electrical:** Provide a dry type transformer and electrical panel in the new Welding Space to accommodate the new welding booths and mechanical equipment. The feeder to the dry-type transformer will originate from an existing distribution board in the adjacent wood shop area. Provide all electrical connections as noted on the Contract Documents.

B. Type of Contract:

1. Project will be constructed under a single prime contract.

1.04 *OWNER-FURNISHED, CONTRACTOR-INSTALLED (OFICI) PRODUCTS*

A. Not in Use

1.05 *CONTRACTOR'S USE OF SITE AND PREMISES*

- A. Condition of Existing Building: Maintain portions of existing building affected by construction operations in a weathertight condition throughout construction period. Repair damage caused by construction operations.
- B. Condition of Existing Grounds: Maintain portions of existing grounds, landscaping, and hardscaping affected by construction operations throughout construction period. Repair damage caused by construction operations.

1.06 *COORDINATION WITH OCCUPANTS*

- A. Partial Owner Occupancy: Owner will occupy premises during entire construction period, with exception of areas under construction. Cooperate with Owner during construction operations to minimize conflicts and facilitate Owner usage. Perform Work so as not to interfere with Owner's operations. Maintain existing exits unless otherwise indicated.
  1. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities. Do not close or obstruct walkways,

- corridors, or other occupied or used facilities without written permission from Owner and authorities having jurisdiction.
2. Provide not less than 72 hours' notice to Owner of activities that will affect Owner's operations.

### 1.07 WORK RESTRICTIONS

#### A. Comply with restrictions on construction operations.

1. Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.

#### B. Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.

1. Weekend Hours: 9:00 a.m. to 7:00 p.m.
2. Early Morning Hours: High Impact Equipment restricted to 8:00 a.m. to 5:00 p.m.

#### C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:

1. Notify Owner not less than 2 days in advance of proposed utility interruptions.
2. Obtain Owner's written permission before proceeding with utility interruptions.

#### D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruption to Owner occupancy with Owner.

1. Notify Owner not less than 2 days in advance of proposed disruptive operations.
2. Obtain Owner's written permission before proceeding with disruptive operations.

#### E. Smoking and Controlled Substance Restrictions: Use of tobacco products, alcoholic beverages, and other controlled substances on Project site or within existing building is not permitted.

#### F. Employee Identification: Provide identification tags for Contractor personnel working on Project site. Require personnel to use identification tags at all times.

- G. Employee Screening: Comply with Owner's requirements for drug and background screening of Contractor personnel working on Project site.
1. Maintain list of approved screened personnel with Owner's representative.

#### 1.08 *SPECIFICATION AND DRAWING CONVENTIONS*

- A. Specification Content: Specifications use certain conventions for style of language and intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
1. Imperative mood and streamlined language are generally used in Specifications. The words "shall," "shall be," or "shall comply with," depending on context, are implied where a colon (:) is used within a sentence or phrase.
  2. Specification requirements shall be performed by Contractor unless specifically stated otherwise.
- B. Division 01 General Requirements: Requirements of Sections in Division 01 apply to Work of all Sections in Specifications.
- C. Drawing Coordination: Requirements for materials and products identified on Drawings are described in detail in Specifications. One or more of the following are used on Drawings to identify materials and products:
1. **Terminology**: Materials and products are identified by typical generic terms used in individual Specifications Sections.
  2. **Abbreviations**: Materials and products are identified by abbreviations scheduled on Drawings.
  3. **Keynoting**: Materials and products are identified by reference keynotes referencing Specification Section numbers found in this Project Manual.

#### **PART 2 - PRODUCTS (NOT USED)**

#### **PART 3 - EXECUTION (NOT USED)**

END OF SECTION 01 11 00

**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.: \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Procurement Solicitation Date: \_\_\_\_\_

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: \_\_\_\_\_



## Small Works Project *Bidding Instructions*

1. You will receive an email from Christina Reagle
2. Click on "Click here"

The screenshot shows an email invitation from Federal Way Public Schools. At the top left is the school's logo. Below it is a yellow banner with the text: "You have been invited to bid. [Click here](#) to gain access to the project bid information." A red arrow points from the "Click here" link to the banner. Below the banner is a table with bid details:

Invitation Key	9HX217
Project	z_Training- Federal Way School District
Bid Package	Bid Test 1-17-23 11 am
Bid Description	
Project Address	
Bid Due Date/Time	01.17.2023 5:00 PM
Bid Time Zone	(UTC-08:00) Pacific Time (US & Canada)

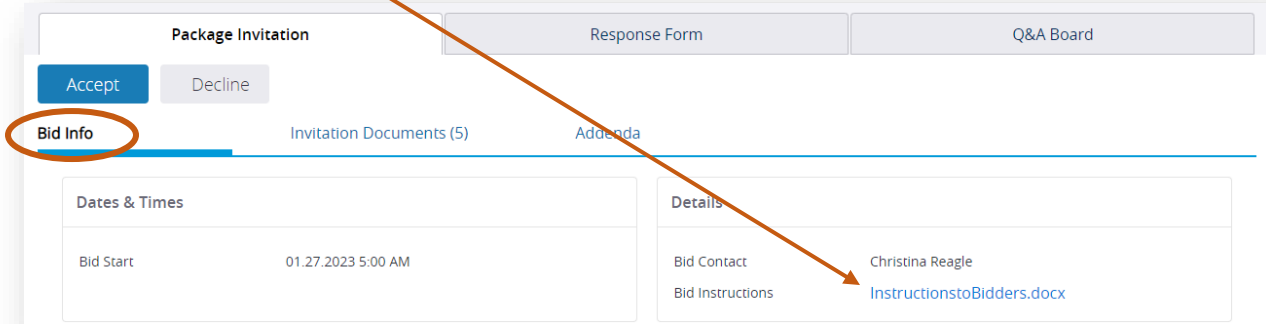
Below the table is a section titled "Bid Contact" with the following information:

Contact	Christina Reagle
Phone	253-945-5964
Email	<a href="mailto:creagle@fwps.org">creagle@fwps.org</a>

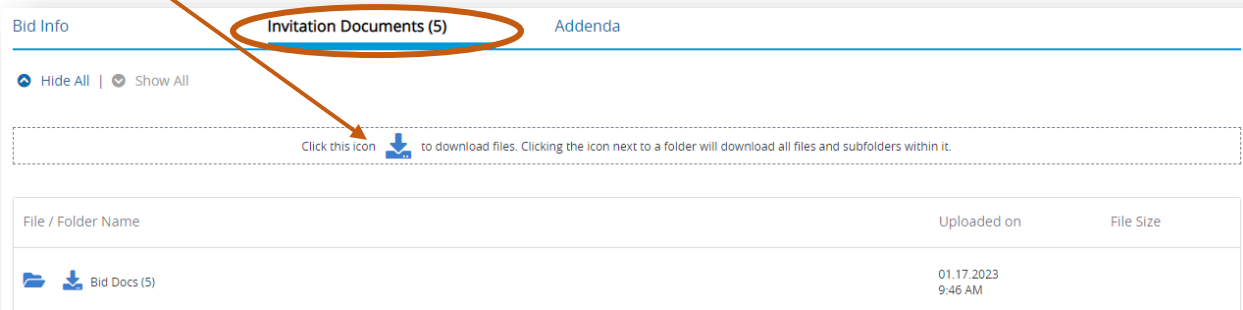
3. If you have not previously registered to bid, you will need to create an account. Otherwise, just log in.

The screenshot shows the "e-Builder Bid Portal" login page. It has a dark background with a grid pattern. At the top is the logo and text "e-Builder Bid Portal". Below that are two input fields: "Enter Username" and "Enter Password". Underneath these are three buttons: a yellow "LOGIN" button, a yellow "Forgot Password" button, and a white "Create Account" button. A red arrow points from the "Create Account" button to the right side of the page.

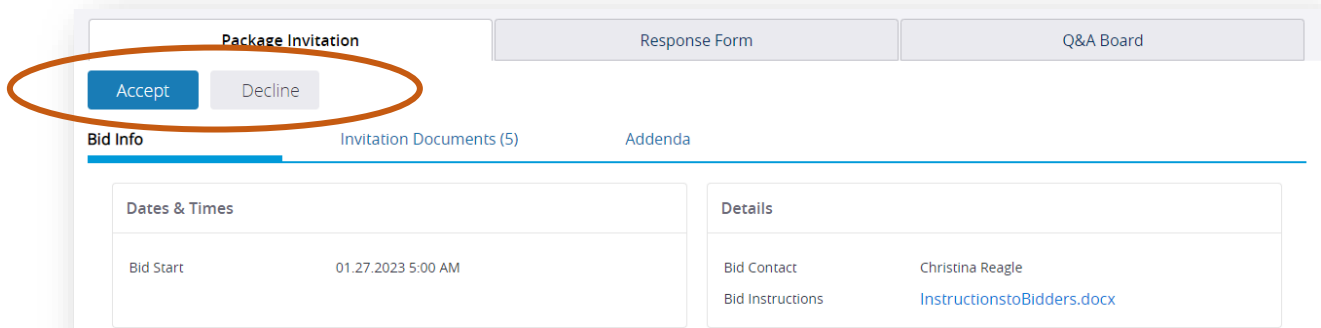
4. Bid Instructions are under the "Bid Info" tab



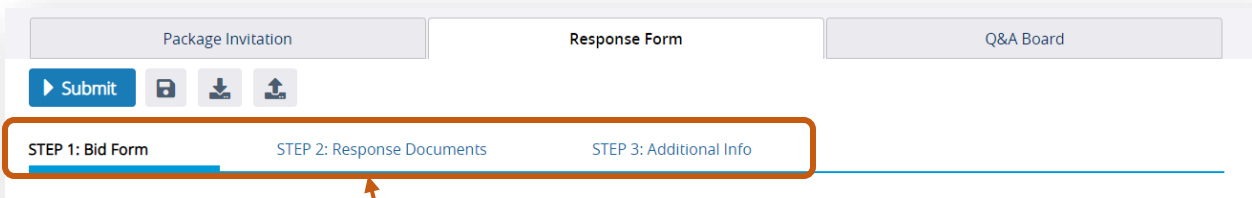
5. You can view project details under the "Invitation Documents" tab. Click the download button to get documents.



6. If you wish to participate in the bidding, press the "Accept" button, otherwise, please press the "Decline" button.



7. Once you accept the invitation, go to the "Response Form" tab



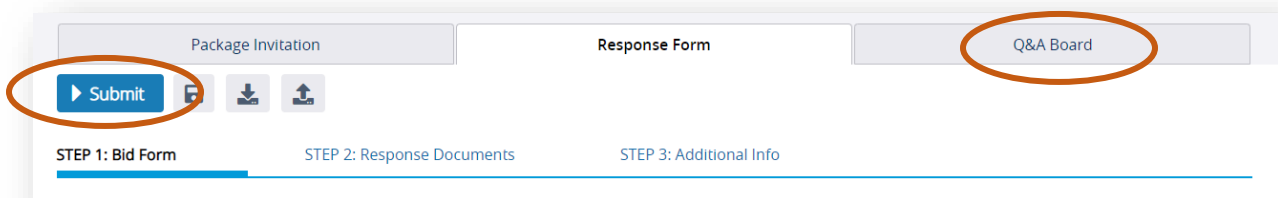
8. Make sure to check each tab and fill in any requested information:  
a. STEP 1 – fill in **all** boxes

The screenshot shows a table titled 'Base Bid' with the following columns: #, Description, Spec Reference, Part Number, Quantity, UoM, Unit Cost, and Total Cost. The table contains three rows of data. A red box highlights the 'Unit Cost' column, and a yellow callout box with the word 'EXAMPLE' points to the first row's unit cost input field.

#	Description	Spec Reference	Part Number	Quantity	UoM	Unit Cost	Total Cost
1.	Hourly Billing Rates - Enter Price Per Hour			40.0000	Hour	<input type="text" value="0.00"/>	0.00
2.	Overtime Rate - Enter Price Per OT Hour			2.0000	Hour	<input type="text" value="0.00"/>	0.00
3.	Mark Up Percentage - Add as Decimal i.e. 12% would be .12			5,000.0000	EA	<input type="text" value="0.00"/>	0.00

b. STEP 2 – upload any requested documents – not always used  
c. STEP 3 – complete any fields – not always used

9. Once your bid is entered, you can press the "Submit" button.



10. Use the Q&A Board to ask/view questions. Make sure to check back frequently to view any addenda and/or questions.





**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»  
«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:**

«ProcessFields\_RetainageLanguage»

**Payment and Performance Bond:**

«ProcessFields\_BondLanguage»

**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.** 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.

**ARTICLE 4 - PAYMENT.** The School District will pay the Contractor within thirty days of receipt of approved monthly Applications for Payment in accordance with the Agreement. The School District will make final payment after Final Completion, within thirty days of receipt of a final Application for Payment, provided that an approved "Statement of Intent to Pay Prevailing Wages," an approved "Affidavit of Wages Paid," and all releases have been submitted. Retention shall be paid per statute. Contractor and each subcontractor shall electronically file a Statement of Intent to Pay Prevailing Wages with the Washington State Department of Labor and Industries complying with the requirements of RCW 39.12.040. Payments provided by authorities providing grant monies shall also be subject to those authorities' requirements.

**ARTICLE 5 - ENUMERATION OF CONTRACT DOCUMENTS.** The Contract Documents include this executed Agreement, including the attached General Conditions, any Supplementary and other Conditions of the Agreement, any Specifications, any Drawings, any Addenda, and the prevailing wage rates. In the event of a conflict or discrepancy among or in the Contract Documents, interpretation shall be governed in the following order of priority:

1. This Agreement
2. The School District's Purchase Order
3. Any Special or Supplemental Conditions
4. The attached General Conditions
5. Scope of Work
6. Specifications
7. Drawings
8. 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 6 - THE CONTRACT DOCUMENTS**

- 6.1 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 Contractor's performance is required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- 6.2 "Work" means the construction and services required by the Contract Documents and includes all labor, materials, equipment and services to be provided by the Contractor to fulfill the Contractor's obligations.

### **ARTICLE 7 - ADMINISTRATION OF THE AGREEMENT**

- 7.1 The School District and/or A/E will provide administration of the Agreement. Neither any Project Manager or A/E representatives are authorized to revoke, alter, relax or release any requirements of the Contract Documents, to issue instructions contrary to the Contract Documents, or to approve or accept any portion of the Work not executed in accordance with the Contract Documents. Any such changes may only be effective if in writing and by the School District's representative listed on the front page of this Agreement.
- 7.2 The School District or A/E may reject Work that, in its opinion, does not conform to the Contract Documents. The School District or A/E may visit the site at intervals it considers appropriate to the stage of the Work to become generally familiar with the progress and quality of the completed Work. However, neither the School District nor the A/E will be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work.
- 7.3 The A/E and School District will not have control over or charge of and will not be responsible for means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility.
- 7.4 The A/E or School District will issue such written clarifications or interpretations as to matters of design interpretation (in the form of Drawings or otherwise) as the A/E or School District may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.
- 7.5 The A/E or School District may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Sum or the Contract Time and are consistent with the overall intent of the Contract Documents. These will be accomplished by a Minor Change in the Work instrument and will be binding on the Contractor, who shall perform the Work involved promptly.
- 7.6 If the Contractor believes that a written clarification or interpretation, a Construction Change Directive or any interpretation justifies an increase in the Contract Sum or an extension of the Contract Time, and the parties are unable to agree to its amount or extent, the Contractor may make a Claim therefor as provided in this Agreement, as soon as possible and no later than fourteen days after receipt of the clarification, interpretation, or Construction Change Directive.

- 7.7 The A/E and School District will also have authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed or completed.
- 7.8 Neither the A/E's or School District's authority to act under this Article 8 nor elsewhere in the Contract Documents, nor any decision made by the A/E or School District in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the A/E or the School District to the Contractor, any Subcontractor of any tier, or any other person or organization performing any of the Work, or to any surety for any of them.

## **ARTICLE 8 - THE CONTRACTOR**

- 8.1 Using its best skill and attention, the Contractor shall perform, supervise and direct the Work. The Contractor shall provide and pay for all labor, materials, equipment, tools and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the Work.
- 8.2 **Safety Precautions and Programs.** The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall have the right to control and shall be solely and completely responsible for conditions of the Work site, including safety of all persons and property, during performance of the Work. 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.
- 8.3 **Subcontractors.** 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 and all lower level subcontractors and suppliers. 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.
- 8.4 **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.
- 8.4.1 Hours of Labor. The Contractor shall comply with all applicable provisions of RCW 49.28.
- 8.4.2 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.
- 8.5 **Nondiscrimination.**
- 8.5.1 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.

- 8.5.2 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).
- 8.5.3 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.
- 8.5.4 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.
- 8.6 **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.
- 8.6.1 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.

8.6.2 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.

8.6.3 Subcontractor Compliance. Contractor shall require any of its Subcontractors to fully comply with the requirements of this section.

- 8.7 **Warranty.** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or explicitly permit otherwise. The Contractor further warrants that the Work will be performed in a skillful and workmanlike manner, will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or explicitly permit. Work, materials, or equipment not conforming to these requirements, including substitutions not properly approved and authorized, is considered defective.
- 8.8 **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.
- 8.9 **Progress Schedule.** Within five days of execution of this Agreement, the Contractor shall submit a schedule of the Work to the School District.
- 8.10 **Clean-Up.** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials caused by operations under the Agreement.
- 8.11 **Indemnification.** Subject to the following conditions, the Contractor shall defend, indemnify, and hold harmless the School District, any listed A/E, and their respective agents, employees, consultants, successors and assigns ("Indemnified Parties") from and against all claims, damages, losses and expenses, direct and indirect, or consequential, including costs and attorneys' fees incurred on such claims and in proving the right to indemnification, arising out of or resulting from 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 indemnify the Indemnified Parties for the sole negligence of the Indemnitor. The Contractor will indemnify the Indemnified Parties for the concurrent negligence of the Indemnitor to the extent of the Indemnitor's negligence. The Contractor has no duty to indemnify the Indemnified Parties for the sole negligence of the Indemnified Parties. The Contractor agrees to being added by the School District as a party to any 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). PROVIDED FURTHER that the Contractor agrees to waive its immunity under the Washington State Industrial Act (Title 51 RCW) as to the

Indemnified Parties only. 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.

- 8.12 **Records.** The Contractor shall maintain and preserve books, ledgers, records, estimates, correspondence, logs, schedules, electronic data and other documents relating or pertaining to the costs and/or performance of the Agreement ("records"). Within seven days of the School District's request, the Contractor shall make available at the Contractor's office all records for inspection, audit and reproduction (including electronic reproduction) by the School District's representatives. These requirements apply to each Subcontractor of any tier. The Contractor agrees, on behalf of itself and Subcontractors of any tier, that the invocation of any rights under RCW 42.56 shall initiate an equivalent right to disclosures from the Contractor and Subcontractors of any tier for the benefit of the School District.

## **ARTICLE 9 - CONSTRUCTION NOT BY THE CONTRACTOR**

- 9.1 The School District may perform construction or operations related to the Project with its own forces and to award separate contracts in connection with other portions of the Project.
- 9.2 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 10 - CHANGES IN THE WORK**

- 10.1 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 in writing, through a Change Order or a Construction Change Directive.
- 10.1.1 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 any adjustment in the Contract Sum as defined in this Article, and the extent of any adjustment in the Contract Time.
- 10.1.2 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.
- 10.2 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 an itemized accounting with supporting data. The total cost of any Change or Claim shall be limited to the reasonable value of the direct labor costs, material costs, construction equipment usage costs for the actual time equipment appropriate for the Work is used solely on the Change in the Work, the cost of any change in

insurance. Subcontractor costs, and a Fee for all combined overhead and profit, including impact costs of any kind, limited to 12% of the cost for any materials or work performed by a Contractor's or Subcontractor's own forces, and 7% on amounts due to lower-tier Subcontractors

- 10.3 **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 19.

## **ARTICLE 11 - TIME**

- 11.1 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.
- 11.2 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 12 - PAYMENTS AND COMPLETION**

- 12.1 **Payments.** Payment shall be made as provided in this Agreement. If progress payments are specified, they will be made as specified in the Specifications Section, Application for Payment, and, pursuant to RCW 60.28, the School District will reserve five percent (5%) 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 that may be due from the Contractor. The moneys reserved may, at the option of the Contractor, be (1) retained in a fund by the School District until forty-five 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 forty-five days following Final Acceptance, with interest to the Contractor; or (3) placed in escrow with a bank or trust company until forty-five 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. If moneys are retained from the Contractor, it may retain payment of not more than five percent (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. If the 10% retainage option is selected on the cover page of this Agreement, then 10% retainage instead of 5% retainage shall be withheld, and the requirements of RCW 39.08.010(3) must also be followed for the release of retainage.

- 12.2 **Prevailing Wages.** 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.
- 12.3 **Withheld Payment.** Payment 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 for labor, materials or equipment, (4) damage to the School District or another contractor, (5) reasonable evidence that the unpaid balance would not be adequate to cover delay damages for which the Contractor is responsible, (6) failure to carry out the Work in accordance with the Contract Documents, or (7) liquidated damages.
- 12.4 **Substantial Completion.**
- 12.4.1 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.
- 12.4.2 Immediately before any occupancy, the School District will schedule an inspection tour of the area to be occupied. Representatives of the School District and Contractor will jointly tour the area and record items still remaining to be finished 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.
- 12.5 **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.

- 12.5.1 An affidavit that all payrolls, Subcontractors, bills for materials and equipment, and other indebtedness connected with the Work for which the School District might be responsible or encumbered, have been paid or otherwise satisfied.
- 12.5.2 A 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 thirty days' prior written notice has been given to the School District.
- 12.5.3 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 and laborers who have filed claims have been paid.
- 12.5.4 Pursuant to RCW 39.12.040, required "Affidavits of Wages Paid."
- 12.5.5 Pursuant to RCW 50.24, a certificate from the Department of Employment Security. A certified statement that the Contractor has closed all necessary permits or otherwise met the requirements of all governing jurisdictions related to this Project.
- 12.5.6 All warranties, guarantees, certificates, spare parts, specified excess material, and other documents or items required by the Contract Documents.
- 12.5.7 A legible hard copy of the as-built drawings.
- 12.5.8 Original permits and permit documents.

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.

## 12.6 **Waivers.**

- 12.6.1 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.
- 12.6.2 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.
- 12.6.3 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 a reservation of rights that has not been initialed by the School District,

any amounts previously agreed to shall be considered disputed and not payable.

- 12.7 **Warranty of Title.** The Contractor warrants and guarantees that title to Work, materials and equipment covered by 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.

**ARTICLE 13 - PROTECTION OF PERSONS AND PROPERTY**

- 13.1 The Contractor shall have the right to control and shall be solely responsible, and the School District shall not have responsibility, for all aspects of safety. The Contractor shall take reasonable precautions for safety on site, and shall provide reasonable protection to prevent damage, injury or loss.
- 13.2 The Contractor shall not be required to perform Work relating to asbestos or polychlorinated biphenyl ("PCB"), unless identified as the Contractor's responsibility in the Contract Documents.

**ARTICLE 14 - INSURANCE AND BONDS**

- 14.1 **Contractor's Liability Insurance.** 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:

<u>Commercial General Liability</u>	
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
<u>Automobile Liability (Any Owned)</u> .....	\$1,000,000
<u>Excess/Umbrella Liability Coverage</u> - Each Occurrence .....	\$2,000,000
<u>Workers' Compensation</u> .....	Statutory
<u>Employer's Liability</u>	
Each Accident.....	\$1,000,000
Disease - Each Employee .....	\$1,000,000
Disease - Policy Limit.....	\$1,000,000

- 14.1.1 The insurance described above shall include coverage for underground, collapse and explosion exposures.

- 14.1.2 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.
- 14.1.3 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.
- 14.1.4 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.
- 14.1.5 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.
- 14.2 **Property Insurance.** 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. 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.
- 14.3 **Payment and Performance Bond.** If the Contractor is required to secure a payment and performance bond (see cover page), it shall be in the amount of the Contract Sum plus sales tax; it shall comply with RCW 39.08 in a form and with a surety approved by the School District; and it shall be submitted to the School District before the School District executes the Agreement.

## **ARTICLE 15 - CORRECTION OF WORK**

- 15.1 If, within one year after the later of the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under the Contract Documents, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it according to the requirements of this Section with no increase to the reimbursable Cost of the Work (i.e. at no cost to the Owner) promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition.
- 15.2 If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal

and correction, in which case the Contract Sum will be reduced by the greater of the (1) cost of correction or (2) diminution of value of the Work that is not in accordance with the requirements of the Contract Documents. Such adjustment shall be effected whether or not final payment has been made.

- 15.3 Nothing in this Article shall establish a period of limitation with respect to other obligations that the Contractor might have under the Contract Documents.

## **ARTICLE 16 - MISCELLANEOUS PROVISIONS**

- 16.1 **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 Superior Court in the county in which the Project is located.
- 16.2 The Contractor shall comply with and give notices required by applicable laws, statues, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.
- 16.3 The Contractor must submit its Wage Prevention Certification prior to the School District executing this Agreement.

## **ARTICLE 17 - TERMINATION OF THE CONTRACT**

- 17.1 **Termination for Cause by Contractor.** If the School District fails to make payment for a period of sixty days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice, terminate the Agreement and recover from the School District payment for all Work executed, in accordance with the Agreement.
- 17.2 **Termination for Cause by School District.** The School District may, upon seven days' written notice to the Contractor, terminate without prejudice the whole or any portion of the Work for cause, including but not limited to the Contractor's material breach of this Agreement; the Contractor's failure to prosecute the Work or any portion thereof with sufficient diligence to ensure the Substantial Completion of the Work within the Contract Time; the Contractor's material disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; the Contractor's being adjudged bankrupt, making a general assignment for the benefit of its creditors, a receiver being appointed on account of the Contractor's insolvency; or the Contractor's failure to comply with RCW 28A.400.330 (generally, a worker having contact with children who has been found guilty of a felony crime involving children).
- 17.3 **Termination for Convenience by School District.** The School District may, at any time upon ten days' written notice to the Contractor, terminate without prejudice 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 (1) the amount due under this Agreement for the Work properly performed prior to the termination and (2) other pre-approved costs, consistent with Paragraph 11.2, necessary and reasonably incurred in connection with the termination.
- 17.4 **Effects of Termination.**
- 17.4.1 The total sum to be paid to the Contractor under this Article shall not exceed the Contract Sum as reduced by the amount of payments otherwise made.
- 17.4.2 Unless the School District directs otherwise, after receipt of a Notice of Termination by the School District, the Contractor shall: promptly stop Work as specified in the Notice of Termination; place no further orders or subcontracts, except as necessary for completion of non-terminated

Work; procure cancellation of all orders and subcontracts to the extent related to the performance of terminated Work; assign to the School District all of its right, title and interest under all orders and subcontracts; with the School District's approval, settle outstanding liabilities and claims arising out of the termination of orders and subcontracts not assigned to the School District; transfer title and deliver to the entity or entities designated by the School District the fabricated or un-fabricated parts, Work in process or completed, partially completed supplies and equipment, materials, tools, dies, jigs and other fixtures, 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; take such action as may be necessary or 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 continue performance only to the extent not terminated.

- 17.4.3 The damages and relief from termination under this Paragraph 18.4 shall be the Contractor's sole entitlement in the event of termination.

## **ARTICLE 18 - DISPUTE RESOLUTION**

- 18.1 All claims, disputes and other matters in question of the Contractor arising out of, or relating to, the Contract Documents or the breach thereof ("Claims") shall be decided exclusively by the following dispute resolution procedure. The Contractor shall diligently carry on the Work and maintain the progress schedule during the dispute resolution procedure, unless the parties mutually agree in writing otherwise.
- 18.2 **Notice of Claim.** The Contractor shall submit notice of all Claims to the School District in writing within seven days of the event giving rise to them.
- 18.3 **Claim Submission.** Within fifteen days of the Notice of Claim, the Contractor shall provide the School District with a written Claim that includes a clear description of the Claim, all changes sought in cost and in time, and data supporting the Claim. Failure to timely file either the Notice of Claim to the Claim itself shall constitute a waiver of the Contractor's right to pursue the Claim.
- 18.4 **Mediation.** The Contractor may bring no Claim against the School District unless the Claim is first subject to mediation under the Construction Mediation Rules of the American Arbitration Association ("AAA"). To initiate the mediation process, the Contractor shall submit a written mediation request to the School District. If the parties are unable to agree upon a mediator within thirty days after the School District's receipt of the written request for mediation, either party may submit a request for mediation to the AAA. Other parties in interest, such as Subcontractors, shall also attend the mediation session. All unresolved Claims in the Project shall be considered at a single mediation session that shall occur prior to Final Acceptance by the School District.
- 18.5 **Litigation.** The Contractor may not bring litigation on a Claim unless it has been properly addressed in the above dispute resolution procedure and the Contractor must also file its lawsuit within 120 days after the Date of Substantial Completion. The pendency of mediation shall toll these filing requirements.

### **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):	FAX (A/C, No):
INSURED  Name/contact information of the vendor/contractor shall be indicated here	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	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 INSD	SUBR 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"/> PRO-JECT <input type="checkbox"/> LOC 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 type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> 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 N / A	Insurance Broker to complete this section			PER STATUTE OTH-ER 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		<i>Contractors: For construction/remodeling projects over \$35,000, please provide Builder's Risk coverage in an amount equal to project value</i>			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

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