



***BID AND CONTRACT DOCUMENTS  
AND SPECIFICATIONS  
FOR***

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***CITY HALL ELEVATOR MODERNIZATION***

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***RFB # 26-004  
PROJECT # 01-990***

***City of Federal Way  
Parks Department  
33325 8th Avenue South  
Federal Way, WA 98003***

**BID AND CONTRACT DOCUMENTS AND SPECIFICATIONS  
FOR  
CITY HALL ELEVATOR MODERNIZATION**

**PROJECT # 01-990**

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Bids Accepted Until 3:00 p.m., March 23, 2026 at  
City of Federal Way  
33325 8th Avenue South  
Federal Way, WA 98003

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Prepared By: Claribel Orellana  
Capital Projects Manager  
City of Federal Way  
Parks Department

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The contract plans and specifications for this Project have been reviewed and approved by:

\_\_\_\_\_  
*Parks Director / Deputy Parks Director*

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## SPECIAL PROVISIONS

### APX A: STANDARD PLANS AND DETAILS

### APX B: PREVAILING WAGES AND BENEFIT CODE KEY

# **ADVERTISEMENT FOR BIDS**

## **CITY HALL ELEVATOR MODERNIZATION**

### **SUBMITTAL OF SEALED BIDS:**

Sealed bids must be submitted by 3:00 p.m. local time on Monday, March 23, 2026, via the City of Federal Way public procurement portal Euna Procurement at: <https://federalway.bonfirehub.com> for this RFB.

Printed, Emailed, Telex or facsimile bids will NOT be accepted. The City will not accept proposals submitted after the submission deadline.

All bids will be opened and read publicly aloud at 3:30 p.m. on Monday, March 23, 2026, in the Hylebos Room (2nd Floor, City Hall), 33325 8th Avenue South, Federal Way, Washington, for this RFB. The bid opening for this RFB will also be available for viewing via zoom:

### **Zoom Link:**

<https://cityoffederalway.zoom.us/j/84162813011?pwd=aVD6tbq4BINXysQmIFa8bYkyfw1HH0.1>

**Meeting ID: 841 6281 3011**

**Passcode: 573378**

This project shall consist of: Repairing and replacing equipment to modernize existing elevator to meet current electrical and elevator codes (ASME 17.1 – 2019)

The City is asking for bids on full replacement of the City Hall Elevator controller and power unit along with all the electrical work needed to fully function and meet specifications and codes. Other work includes updating the hoistway, car, machine room, and hallway with code compliant equipment and electrical needs. The detailed line item work is in the attached Bid Table.

- 1. Existing Conditions.** Elevator is a single, 2-level passenger elevator. It is hydraulic powered with a 3,000 lbs. capacity. The control room is next to the elevator through a secure door. It is currently in a functioning state and is used on a daily basis. There have been reports of sudden, abrupt stops where elevator controller has had to be reset. Those cases have been reported about 4 times a year.
- 2. Contract Conditions.**
  - a. Work Days – Hours may be from Monday through Friday, 0700 – 1700. After hours may be required
  - b. Machine Room – Security clearance for access will be required (background check, finger prints and Criminal Justice Information Services (CJIS) training required).
  - c. Start of Work – 5 business days notice required.
  - d. Disruptions – While the City expects intermittent out-of-service times, the City asks to minimize the disruptions and provide timely notices for staff dissemination. Schedules and downtimes to be approved by the City through amicable coordination.
  - e. Staging – Contractor shall keep working area tidy and clean at all times. Contractor responsible for disposal.
- 3. Equipment and Deliverables**
  - a. Elevator Controller – To be new, non-proprietary equipment. Controller to be produced by manufacturer independent of installing contractor.
  - b. Elevator interior – lighting and finishes are to remain unchanged. Buttons shall be replaced with vandal resistant type.
  - c. Elevator Car – Retain existing car door operator, linkages and doors. Replace all wearble components, adjust and service as needed. All buttons shall be vandal resistant type.

- d. Access and Assistance to other trades – Contract shall provide access to hoistway for electrician work and other trades as needed at no additional cost.
- e. Testing – Contract shall include all labor, support, pre-testing and retesting as needed in accordance to the scope of work and ASME inspection standards.
- f. Warranty – Contractor shall provide manufacturer manuals and warranty information for all equipment installed. All equipment and labor to be to have a minimum of 1 – year warranty.

The City anticipates awarding this project to the successful bidder and intends to give Notice to Proceed as soon as the Contract and all required documents are executed in full. Regardless of the date of award or Notice to Proceed, the Contractor must complete all work within 90 working days.

**PRE-BID SITE VISITS:** Contractors are encouraged to attend the Pre-bid Visit. The City may be able to accommodate individual site visits but not guaranteed.

**BID DOCUMENTS:**

Free-of-charge access to project bid documents (plans, specifications, addenda, and Bidders List) is provided to Prime Bidders, Subcontractors, and Vendors by going to the City of Federal Way public procurement portal Euna Procurement at: <https://federalway.bonfirehub.com>. This online procurement portal provides Bidders with fully usable online documents with the ability to: download, view, print, order full/partial plan sets.

**Required to Register in Euna Procurement:** All bidders responding to this request are required to register on the City of Federal Way public procurement portal Euna Procurement at: <https://federalway.bonfirehub.com>. for this RFB

An informational copy of plans, specifications, and addenda are also available for viewing only at: <https://www.federalwaywa.gov/bids>

The recipient, in accordance with Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award. The City encourages minority and women-owned firms to submit bids consistent with the City's policy to ensure that such firms are afforded the maximum practicable opportunity to compete for and obtain public contracts.

The Contractor will be required to comply with all local, State, and Federal laws and regulations pertaining to equal employment opportunities.

**QUESTIONS:**

Any questions concerning the description of the work contained in the contract documents must be submitted via the Q&A section (left hand menu) for this RFB on the City of Federal Way public procurement portal Euna Procurement at: <https://federalway.bonfirehub.com>. The questions must be received by the City on or before **Wednesday, March 18, 2026 at 5:00 p.m.** to allow a written reply to reach all prospective Bidders before the submission of their bids.

**PRE-BID MEETING:** Pre-bid meeting scheduled for Friday February 27, 2026 at 9:00am starting at City Hall lobby. Please rsvp by Wednesday, February 25, 2026 5:00pm. Any clarifying information from the Pre-bid visit shall be posted on Euna Procurement (Bonfire) for all interested Contractors to see through the Public Q&A or Public Notice tab under Messages (left hand menu).

**OTHER PROVISIONS:**

All bid proposals shall be in accordance with the Contract and all bid proposals shall be accompanied by a bid deposit or bond in the amount required in the Contract. Forfeiture of the proposal bond or deposit to the City shall be in accordance with the Contract.

The recipient, in accordance with Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award. The City encourages minority and women-owned firms to submit bids consistent with the City's policy to ensure that such firms are afforded the maximum practicable opportunity to compete for and obtain public contracts.

The City of Federal Way reserves the right to reject any and all bids, waive any informalities or minor irregularities in the bidding, and determine which bid or bidder meets the criteria set forth in the bid documents.

**DATES OF PUBLICATION:**

Daily Journal of Commerce  
Federal Way Mirror

Publish \_\_\_\_\_, 20\_\_\_\_ and \_\_\_\_\_, 20\_\_\_\_  
Publish Feb. 14, 2026\_ and Feb. 21, 2026\_\_\_\_

# **INSTRUCTIONS TO BIDDERS & CHECKLISTS**

**(1) ADVERTISEMENT FOR BIDS AND CONTRACT DOCUMENTS**

The Advertisement for Bids and Contract Documents contain bidder instructions that must be complied with.

**(2) EXAMINATION OF BID AND CONTRACT DOCUMENTS – BIDDER RESPONSIBILITIES**

The submission of a bid shall constitute an acknowledgment upon which the City may rely that the bidder has thoroughly examined and is familiar with the bid and Contract Documents, the Project site, the availability of materials and labor, publically available information, and has reviewed and inspected all applicable federal, state, and local statutes, regulations, ordinances and resolutions dealing with or related to the equipment and/or services to be provided herein. The failure or neglect of a bidder to examine such documents, statutes, regulations, ordinances or resolutions shall in no way relieve the bidder from any obligations with respect to the bidder's bid or the contract documents. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any contract documents, statutes, regulations, ordinances or resolutions. Bidders shall visit delivery and service locations(s) as required. Bidders shall become familiar with and verify any environmental factors, which may impact current or future prices for this requirement.

**(3) BID OPTIONS**

The Bid Proposal for this Contract requires the Bidder to bid Optional Items as part of the bid. As such the Bidder is required to submit a Base Bid and a bid for each of the Optional Item. To be considered responsive the Bidder shall submit a price on each and every Bid item included in the Base Bid and all Option(s). The successful Bidder will be the Bidder submitting the lowest responsible Bid for the highest order Preference that is within the amount of available funds for the project.

The Contracting Agency may, at their discretion, award a Contract for the Base Bid, without any additional Options, in the event that all Bids exceed the available funds.

**(4) INTERPRETATION OF BID AND CONTRACT DOCUMENTS**

No oral clarifications, interpretations, or representation will be made to any bidder as to the meaning of the bid or Contract Documents. Bidders shall not rely upon any oral statement or conversation they may have with City's employees, agents, representatives, consultants, or design professionals regarding the Contract Documents, whether at the pre-bid meeting or otherwise and no oral communications will be binding upon the City. Any questions must submitted via the Messages/Public Q&A section for this RFB on our City of Federal Way public procurement portal Euna Procurement at: <https://federalway.bonfirehub.com> The questions must be received by the City no later than 5:00 p.m. three business days preceding the bid opening to allow a written reply to reach all prospective Bidders before the submission of their bids. Any interpretation deemed necessary by the City will be in the form of an Addendum to the bid documents and when issued will be sent as promptly as is practical to all parties to whom the bid documents have been issued. All such Addenda shall become part of the bid.

**(5) BID PRICE**

The bid price shall include everything necessary for the completion of the Contract and the Work including, but not limited to, furnishing all materials, equipment, tools, freight charges, facilities and all management, superintendence, labor and service, except as may be provided otherwise in the Contract Documents. All Washington State sales tax and all other government taxes, assessments and charges shall be included in the various Bid item prices as required by law. The offer shall remain in effect ninety (90) days after the bid opening.

**(6) POSTPONEMENT OF BID OPENING**

The City reserves the right to postpone the date and time for the opening of bids by Addendum at any time prior to the bid opening date and time announced in these documents.

(7) **REJECTION OF BIDS**

The City reserves the right to reject any bid for any reason including, but not limited to, the reasons listed in Special Provisions Section 1-02.13. The City further reserves the right to reject any portion of any bid and/or to reject all bids. In consideration for the City's review and evaluation of its bid, the bidder waives and releases any claims against the City arising from any rejection of any or all bids. If, in the opinion of the City, there is reason to believe that collusion exists among bidders, none of the bids of the participants in such collusion will be considered.

(8) **BIDDER'S CHECKLIST**

The bidder's attention is especially called to the following forms, which must be executed in full as required. Failure to comply may result in rejection of any bid not so complying.

- ☐ **Bid Proposal**: The Bid Proposal shall be completed and fully executed, including filling in the total bid amount.
- ☐ **Bid Bond**: This form is to be executed by the bidder (and the surety company as appropriate, depending upon the option selected by the bidder).
- ☐ **Subcontractor List**: The Subcontractor List shall be filled in by the bidder.
- ☐ **Contractor Certification – Wage Law Compliance**: This form shall be filled in and fully executed by the bidder.
- ☐ **Contractor Certification – State Registration and Department of Revenue Numbers**: A copy with this information to be included in Bid Proposal
- ☐ **Retainage Option**: This form shall be filled in and executed by the bidder to inform the City of their Retainage Option in the event they are the lowest, responsive, responsible bidder..

(9) **CONTRACT CHECKLIST**

The following documents are to be executed and delivered to the City after the Bid is awarded:

- ☐ **Public Works Contract**: The successful bidder will fully execute and deliver to the City the Public Works Contract ("Contract") from these Bid Documents.
- ☐ **Certificate of Insurance**: The successful bidder will provide a Certificate of Insurance evidencing the insurance requirement set forth in the Contract.
- ☐ **Performance/Payment Bond**: The successful bidder will provide a fully executed Performance/Payment Bond as appropriate.
- ☐ **Contractor's Retainage Bond**: If the retainage bond option is chosen, then the successful bidder will fully execute and deliver to the City the Contractor's Retainage Bond.
- ☐ **Business License**: The successful bidder will provide a copy of a current Business License with the City of Federal Way.



**BID PROPOSAL**  
**CITY HALL ELEVATOR MODERNIZATION**

**PROPOSAL SUBMITTED BY:**

Bidder: \_\_\_\_\_  
*Full Legal Name of Firm*

Contact: \_\_\_\_\_  
*Individual with Legal Authority to sign Bid and Contract*

Address: \_\_\_\_\_  
*Street Address*  
\_\_\_\_\_  
*City, State Zip*

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Select One of the Following:      ☐ Corporation  
   ☐ Limited Liability Company/Partnership  
   ☐ Individual  
   ☐ Other

State Contractor's License No.: \_\_\_\_\_

State Contractor's License Expiration Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Month Day Year*

State UBI No.: \_\_\_\_\_

Employment Security Department No.: \_\_\_\_\_

Labor and Industries Department Account, ID No.: \_\_\_\_\_

# BID TABLE

## PLEASE COMPLETE BID TABLE THROUGH THE BONFIRE CONTRACTS PLATFORM UNDER 'REQUESTED INFORMATION'

The documents incorporated by reference, as if fully set forth, are the Advertisement for Bids, the Instructions to Bidders and Checklists, the Contractor's Bid Proposal (including all forms and supplemental information listed on the Bidders Checklist), the Contract Documents (including Project Plans, Specifications, and all Appendices, Amendments, and Supplemental Reports & Information), the Contract Provisions (including all forms and supplemental information listed on the Contract Checklist), and any other documents provided to bidders and/or referenced in or referred to by the Contract Documents.

Pursuant to and in compliance with the Advertisement for Bids for the Project, and other documents relating thereto, the undersigned has carefully examined all of the bid and contract documents, considered conditions which may affect the delivery, supply and maintenance for the Project, and hereby proposes to furnish all labor, materials and perform all work as required in strict accordance with the contract documents, for the referenced bid amount, inclusive of Washington State sales tax and all other government taxes, assessments and charges as required by law.

### **NON-COLLUSION AFFIDAVIT**

By signing this proposal, the undersigned acknowledges that the person(s), firm, association, or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this project.

### **CONFLICTS OF INTEREST, GRATUITIES, & NON-COMPETITIVE PRACTICES**

By signing this proposal, the undersigned agrees as follows:

- (1) That it has no direct or indirect pecuniary or proprietary interest, that it shall not acquire any interest which conflicts in any manner or degree with the work, services, equipment or materials required to be performed and/or provided under this contract and that it shall not employ any person or agent having any such interests. In the event that the Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to the City and take action immediately to eliminate the conflict or to withdraw from this contract, as the City may require; and
- (2) That no person or selling agency except bona fide employees or designated agents or representatives of the Contractor have been employed or retained to solicit or secure this contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
- (3) That no gratuities in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member or employee of the City or other governmental agency with a view toward securing this contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this contract

**AFFIDAVIT OF ELIGIBILITY**

The Contractor certifies that it is properly licensed and registered under the laws of the State of Washington and has not been determined to have been in violation of RCW 50.12.070(1)(b), RCW 51.16.070(1)(b), or RCW 82.32.070(2) within the last two years. The Contractor further certifies that it has not been determined, within the last one year, to have committed any combination of two of the following violations or infractions within a five year period: (1) Violated RCW 51.48.020(1) or 51.48.103; or (2) Committed an infraction or violation under Chapter 18.27 RCW.

**CERTIFICATION OF LAWFUL EMPLOYMENT**

The Contractor hereby certifies that it has complied with all provisions of the Immigration and Nationality Act now or as herein after amended, 8 U.S.C. 1101 et. Seq., and that all employees, including subcontractor employees, are lawfully permitted to perform work in the United States as provided in this agreement with the City of Federal Way.

Receipt of the following Addendums is hereby acknowledged:

Addendum No. \_\_\_\_\_ Date Issued: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Issued: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Issued: \_\_\_\_\_

The undersigned individual represents and warrants that he or she is dully authorized to execute the bid and all bid documents on behalf of any partnership, joint venture or corporation.

[signature page to follow]

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Title*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of Notary*

\_\_\_\_\_  
*Printed name of Notary*  
*Notary Public in and for the State of Washington*

*My commission expires:* \_\_\_\_\_

**BID BOND**  
**CITY HALL ELEVATOR MODERNIZATION**

**OPTION 1: BID BOND DEPOSIT**

Attached is a deposit in the form of a certified check, cashier's check, or cash in the amount of \$\_\_\_\_\_, which amount is not less than five percent (5%) of the total bid.

\_\_\_\_\_  
*Principal – Signature of Authorized Official* *Date*

\_\_\_\_\_  
*Title*

**—OR—**

**OPTION 2: BID BOND**

KNOW ALL PERSONS BY THESE PRESENTS that we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the City of Federal Way, as Obligee, in the sum of five (5) percent of the total amount of the bid proposal for the payment of which the Principal and the Surety bond themselves, their heirs and executors, administrators, successors and assigns, jointly and severally, by these presents.

The condition of this obligation is such that if the Obligee shall make any award to the Principal for the above-mentioned Project according to the terms of the proposal or bid made by the Principal therefore, and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee; or if the Principal shall in case of failure so to do, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids, then this obligation shall be null and void; otherwise, it shall be, and remain in full force and effect, and the Surety shall forthwith pay and forfeit to the Obligee as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*Principal – Signature of Authorized Official*

\_\_\_\_\_  
*Surety – Attorney in Fact*  
*(Attach Power of Attorney)*

\_\_\_\_\_  
*Title*

Name and Address of Local Office/Agent of Surety Company is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **SUBCONTRACTOR LIST**

CITY OF FEDERAL WAY
33325 8TH AVENUE S FEDERAL WAY, WA 98003-6325

# Local Agency Subcontractor List

*Prepared in compliance with RCW 39.30.060 as amended*

## To Be Submitted with the Bid Proposal

Project Name \_\_\_\_\_

**Failure to list subcontractors with whom the bidder, if awarded the contract, will directly subcontract for performance of the work of structural steel installation, rebar installation, heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical, as described in Chapter 19.28 RCW or naming more than one subcontractor to perform the same work will result in your bid being non-responsive and therefore void.**

Subcontractor(s) with whom the bidder will directly subcontract that are proposed to perform the work of structural steel installation, rebar installation, heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the subcontractor(s) name.

**To the extent the Project includes one or more categories of work referenced in RCW 39.30.060, and no subcontractor is listed below to perform such work, the bidder certifies that the work will either (i) be performed by the bidder itself, or (ii) be performed by a lower tier subcontractor who will not contract directly with the bidder.**

Subcontractor Name \_\_\_\_\_  
Work to be performed \_\_\_\_\_

Subcontractor Name \_\_\_\_\_  
Work to be performed \_\_\_\_\_

Subcontractor Name \_\_\_\_\_  
Work to be performed \_\_\_\_\_

Subcontractor Name \_\_\_\_\_  
Work to be performed \_\_\_\_\_

Subcontractor Name \_\_\_\_\_  
Work to be performed \_\_\_\_\_

\* Bidder's are notified that it is the opinion of the enforcement agency that PVC or metal conduit, junction boxes, etc, are considered electrical equipment and therefore considered part of electrical work, even if the installation is for future use and no wiring or electrical current is connected during the project.

DOT Form 271-015A  
Revised 06/2020

## **CONTRACTOR WAGE LAW COMPLIANCE CERTIFICATION**

**FAILURE TO RETURN THIS CERTIFICATION AS PART OF THE BID PROPOSAL PACKAGE WILL MAKE THIS BID NONRESPONSIVE AND INELIGIBLE FOR AWARD.**

I hereby certify, under penalty of perjury under the laws of the State of Washington, on behalf of the firm identified below that, to the best of my knowledge and belief, this firm has **NOT** been determined by a final and binding citation and notice of assessment issued by the Washington State 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 Chapters 49.46, 49.48, and 49.52 RCW within three (3) years prior to the date of the Request for Bids.

Bidder Name: \_\_\_\_\_  
*Print Full Legal 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: \_\_\_\_\_



## **RETAINAGE OPTION**

### **IDENTIFICATION AND DESCRIPTION**

Project Title: City Hall Elevator Modernization

RFB No: 26-004

Contractor: \_\_\_\_\_

### **GENERAL REQUIREMENTS**

1. In accordance with applicable State Statutes, a contract retainage not to exceed five percent of the moneys earned by the contractor will be reserved by the City.
2. All investments selected are subject to City approval.
3. The final disposition of the contract retainage will be made in accordance with applicable State Statutes.

### **BIDDER'S INSTRUCTIONS**

If deemed to be the lowest responsive, responsible bidder and pursuant to RCW 60.28.011, I hereby notify the City of Federal Way of my instructions for the retainage withheld under the terms of the contract and further request the appropriate forms be included in the Contract documents prepared for execution.

- ☐ **Option 1:** Retained in a fund by the City of Federal Way. No interest will be paid to the contractor.
- ☐ **Option 2:** Deposited in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest paid to the contractor. Contractor shall have the bank (or other) execute a separate "City of Federal Way Retainage Bank Acceptance Agreement" upon contract award. The City will provide the agreement to the Contractor if this option is selected.
- ☐ **Option 3:** Placed in escrow with a bank or trust company. Contractor shall execute, and have escrow account holder execute a separate "City of Federal Way Construction Retainage Escrow Agreement" upon contract award. The City will provide the agreement to the Contractor if this option is selected. All investments are subject to City approval. The cost of the investment program, and risk thereof, is to be borne entirely by the contractor.
- ☐ **Option 4:** Contractor shall submit a "Retainage Bond" on City-provided form included in these Contract Documents.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

# **PUBLIC WORKS CONTRACT**

THIS PUBLIC WORKS CONTRACT ("Contract") is dated effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and is made by and between the City of Federal Way, a Washington municipal corporation ("City or Owner"), and \_\_\_\_\_, a \_\_\_\_\_ ("Contractor"), for the project known as \_\_\_\_\_ (the "Project").

A. The City desires to retain an independent contractor to furnish all labor and materials necessary to perform work necessary to complete the Project; and

B. The Contractor has the requisite skill and experience to perform such work.

NOW, THEREFORE, the parties ("Parties") agree to the following terms and conditions:

## **1. SERVICES BY CONTRACTOR**

Contractor shall perform all Work and furnish all tools, materials, supplies, equipment, labor and other items incidental thereto necessary for the construction and completion of the Project. Contractor shall perform the Work in a manner consistent with accepted practices for other properly licensed contractors and in accordance with and as described in the Contract Documents, which Work shall be completed to the City's satisfaction, within the time period prescribed by the City and pursuant to the direction of the Mayor or his or her designee.

## **2. TERM**

2.1 This Contract shall commence on the effective date of this Contract and continue until the Project is formally accepted as complete by the City Council, Notice of Project Completion is filed with State agencies, and all bonds for the Project are released by the City.

2.2 The Contractor must complete the Work in accordance with the number of Working Days for the Project as identified in the Contract Documents. With regard to obtaining Substantial Completion and the Completion Date by the Contractor, time is of the essence. In the event the Work is not substantially completed within the time specified in the Contract Documents, Contractor agrees to pay to the City liquidated damages in the amount set forth in the Contract Documents. The parties acknowledge that delays inconvenience the public and cost taxpayers undue sums of money, adding time needed for administration, inspection, and supervision of the Project and diverting City resources from other projects and obligations.

2.3 If the Contractor is unreasonably delayed by others, notification shall be made in writing to the Engineer in accordance with the Contract Documents. Any request for a time extension or additional compensation (including expectancy or consequential damages) allegedly resulting from such delay shall be made in accordance with the procedures of the Contract Documents. Failure to follow the notice procedures in the Contract Documents is a full and complete waiver of Contractor's right to additional time, money, damages, or other relief (including expectancy or consequential damages) as a result of the event or condition giving rise to such request.

## **3. COMPENSATION**

3.1 In consideration of the Contractor performing the Work, the City agrees to pay the Contractor an amount not to exceed \_\_\_\_\_ and \_\_\_\_/100 Dollars (\$ \_\_\_\_\_), which amount shall constitute full and complete payment by the City ("Total Compensation"). The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Contract.

3.2 The City shall pay the Contractor for Work performed under this Contract as detailed in the Bid Proposal, which is incorporated herein and made a part hereof by this reference, and as detailed in the Contract Documents. The City shall have the right to withhold payment to the Contractor for any of the Work not completed in a satisfactory manner, in the City's sole and absolute discretion, which shall be withheld until such

time as Contractor modifies or repairs the Work so that the Work is acceptable to the City. Payment to the Contractor for partial estimates, final estimates, and retained percentages shall be subject to controlling laws.

3.3 In addition to the requirements set forth in the Contract Documents, the Contractor shall maintain Project cost records by cost codes and shall contemporaneously segregate and separately record, at the time incurred, all costs (1) directly associated with each work activity, (2) directly or indirectly resulting from any event, occurrence, condition, or direction for which Contractor seeks an adjustment in Contract price Contract time, or related to any other Claim or protest. Any work performed for which Contractor intends to seek an adjustment in Contract Price or Contract Time, or related to any other Claim or protest, shall be recorded on the same day the work is performed and kept separate so as to distinguish it from Contract Work.

#### **4. INDEPENDENT CONTRACTOR**

4.1 It is the intention and understanding of the Parties that the Contractor shall be an independent contractor and that the City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall not conduct itself as nor claim to be an officer or employee of the City. The Contractor shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Contractor may or will be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services. Contractor agrees to resolve any such conflicts of interest in favor of the City. Nothing contained in this Contract shall create a contractual or direct relationship with or a cause of action in favor of a Subcontractor or third party against the City, or by the Contractor against the Engineer, or against any of their agents, employees, engineers, or consultants.

4.2 If the Contractor is a sole proprietorship or if this is a contract with an individual, the contractor agrees to notify the City and complete any required form if the Contractor retired under a State of Washington retirement system and agrees to indemnify any losses the City may sustain through the Contractor's failure to do so.

#### **5. INDEMNIFICATION**

##### **5.1 Contractor Indemnification.**

5.1.1 The Contractor shall indemnify, defend, and hold the City, its elected officials, officers, employees, agents, consultants, and volunteers (collectively "the Indemnified Parties") harmless from any costs or losses, and pay and damages or judgments, related to any claim brought by any person employed in any capacity by the Contractor or subcontractor or supplier (of any tier) performing the Work, with respect to the payment of wages, salaries, or other compensation or benefits including but not limited to benefits such as medical, health, retirement, vacation, sick leave, etc.

5.1.2. To the fullest extent permitted by law, the Contractor shall defend, release, indemnify, and hold harmless the City and the Indemnified Parties for, from, and against any and all claims, demands, losses, costs, damages, suits, actions, expenses, fines, penalties, response costs, and liabilities (including costs and all attorney and expert fees and internal personnel costs of investigation) of whatsoever kind or nature to the extent arising from, resulting from, connected with, or incident to the Contractor's performance or failure to perform this Contract or the Work or its breach of this Contract; provided, however, that if the provisions of RCW 4.24.155 apply to the Work and any injuries to persons or property arising out of the performance of this Contract are caused by or result from the concurrent negligence of the Contractor or its subcontractors, agents, employees, or anyone for whom they are legally liable, and an Indemnified Party, the indemnification and defense obligations under this Section 5.1.2 apply only to the extent of the negligence of the Contractor, its subcontractors, agents, employees, and anyone for whom they are legally liable.

5.1.3 Contractor specifically assumes potential liability for actions brought by the Contractor's own employees or former employees against any Indemnified Party, and for that purpose Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW.

Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. Provided, however, the Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by any Indemnified party, and does not include, or extend to, any claims by the Contractor's employee directly against the Contractor. The Contractor recognizes that this waiver was specifically entered into.

5.2 Contractor Release. Any deviation, alteration, variation, addition, or omission in the Work by Contractor from the Contract Documents shall preclude Contractor from bringing any Claim or request for additional time or compensation on the basis of an alleged defect or error in the Contract Documents related to or arising, in any way, from that deviation, alteration, variation, addition, or omission. The Contractor further warrants that any alteration, variation, deletion, or omission fully complies with or exceeds all requirements of the Contract Documents and assumes all risk thereof.

5.3 Survival. The provisions of this Section shall (1) survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination, final payment hereunder, and any applicable statute of repose with respect to claims, fines, costs or damages brought or made against any Indemnified Party; (2) shall not be limited by RCW 4.16326(g); and (3) are in addition to any other rights or remedies which the City and/or any of the Indemnified Parties may have by law or under this Contract.

5.4 Offset. In the event of any claim or demand made against any Indemnified Party hereunder, the City may, in its sole discretion, reserve, retain or apply any monies due to the Contractor under the Contract or any other agreement or contract with the City for the purpose of resolving such claims; provided, however, that the City may, in the City's sole discretion, release such funds if the Contractor provides the City with adequate assurance of the protection of the City's and the other Indemnified Parties interests.

5.5 The Contractor shall ensure that each Subcontract includes a provision requiring each Subcontractor to indemnify and defend the City and the Indemnified Parties in the same manner, to the same extent, and for the same duration as Contractor agrees to indemnify and defend the City and the Indemnified Parties in this Section 5.

## **6. OWNERSHIP OF DOCUMENTS**

All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media, all finished or unfinished documents or material which may be produced or modified by Contractor while performing the Work, whether or not required to be furnished to the City, shall become the property of the City, shall be delivered to the City at its request, and may be used by the City without restriction.

## **7. PATENTS, COPYRIGHTS, AND RIGHTS IN DATA**

7.1 Any patentable result or material suitable for copyright arising out of this Contract shall be owned by and made available to the City for public use, unless the City shall, in a specific case where it is legally permissible, determine that it is in the public interest that it not be so owned or available.

7.2 The Contractor agrees that the ownership of any plans, drawings, designs, specifications, computer programs, technical reports, operating manuals, calculations, notes and other work submitted or which is specified to be delivered under this Contract, whether or not complete (referred to in this subsection as "Subject Data"), is hereby irrevocably transferred and assigned to the City and shall be vested in the City or such other local, state or federal agency, if any, as may be provided by separate contract with the City. The Contractor shall execute and deliver such instruments and take such other action(s) as may be requested by the City to perfect or protect the City's rights to such Subject Data and work product, and to perfect the assignments and transfers contemplated in Sections 6 and 7.

7.3 All such Subject Data furnished by the Contractor pursuant to this Contract, other than documents exclusively for internal use by the City, shall carry such notations on the front cover or a title page (or in such case of maps, in the same block) as may be requested by the City. The Contractor shall also place their

endorsement on all Subject Data furnished by them. All such identification details shall be subject to approval by the City prior to printing.

7.4 The Contractor shall ensure that substantially the foregoing paragraphs in Sections 6 and 7 are included in each subcontract for the work on the Project.

## **8. GENERAL PROVISIONS**

8.1 Entire Contract. The Contract Documents contain all of the agreements of the Parties with respect to any matter covered or mentioned in this Contract and no prior agreements or understandings pertaining to any such matters shall be effective for any purpose. In entering into this Contract, neither party has relied upon any statement, estimate, forecast, projection, representation, warranty, action or agreement of the other party except for those expressly contained in the Contract Documents.

8.2 Documents. The documents incorporated by reference, as if fully set forth in this Contract, are the Advertisement for Bids, the Instructions to Bidders and Checklists, the Contractor's Bid Proposal (including all forms and supplemental information listed on the Bidders Checklist), the Contract Documents (including Project Plans, Specifications, and all Appendices, Amendments, and Supplemental Reports & Information), the Contract Provisions (including all forms and supplemental information listed on the Contract Checklist), the version of the Washington State Standard Specifications for Road, Bridge, and Municipal Construction identified herein, and any other documents provided to bidders and/or referenced in or referred to by the Contract Documents.

8.3 Modification. No provisions of this Contract, including this provision, may be amended or added to except by agreement in writing signed by the Parties or their respective successors in interest in accordance with the Contract Documents.

8.4 Change Orders. In addition to its rights under the Contract Documents, the City may unilaterally issue a Change Order at any time making changes within the general scope of the Contract, without invalidating the Contract and without providing notice to sureties. The City's issuance of a unilateral Change Order shall not be construed as a waiver of any rights afforded the City, including its right to reject a prior protest or request for change or Claim due to untimeliness or the Contractor's failure to fully comply with the requirements of the Contract Documents, or to void the unilateral Change Order due to unilateral mistake, misrepresentation, or fraud.

8.5 Total Cost Method / Claims. In no event shall a Total Cost Method or a modified Total Cost Method be used by the Contractor to calculate any adjustments to the Contract price. For the purpose of this provision, any cost method, or variety of cost methods, using the difference between the actual cost of the Work and the Bid or Contract price of the Work to calculate any additional compensation or money owed to the Contractor shall be considered a Total Cost Method. In addition, the City shall not be responsible for, and the Contractor shall not be entitled to, any compensation for unallowable costs. Unallowable costs include, but are not limited to: (i) interest or attorneys' fees, except as mandated by statute; (ii) Claim preparation or filing costs; (iii) the costs of preparing notices or protests; (iv) lost profits, lost income, or lost earnings; (v) costs for idle equipment when such equipment is not at the Site, has not been employed in the Work, or is not scheduled to be used at the Site; (vi) claims consulting costs; (vii) expert fees and costs; (viii) loss of other business; and/or (ix) any other special, consequential, expectancy, incidental, or indirect damages incurred by the Contractor, Subcontractors, or suppliers.

8.6 Warranties and Guarantees. In addition to the requirements of the Contract Documents, the Contractor warrants that all portions of the Work that will be covered by a manufacturer's or supplier's guarantee or warranty shall be performed in such a manner so as to preserve all rights under such guarantees or warranties. If the City attempts to enforce a claim based upon a manufacturer's or supplier's guarantee or warranty and such manufacturer or supplier refuses to honor such guarantee or warranty based, in whole or in part, on a claim of defective installation by the Contractor or a Subcontractor, the Contractor shall be responsible for any resulting loss or damage, and repairs, incurred by the City as a result of the manufacturer's or supplier's refusal to honor such guarantee or warranty. This obligation survives termination of this Contract.

8.7 Full Force and Effect. Any provision of this Contract, which is declared invalid, void or illegal, shall in no way affect, impair, or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

8.8 Assignment. The Contractor shall not transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the City. In the event the City consents to any such assignment or transfer, such consent shall in no way release the Contractor from any of its obligations or liabilities under this Contract.

8.9 Successors In Interest. Subject to the preceding Subsection, this Contract shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.

8.10 Time Limitation and Venue. For the convenience of the parties to the Contract it is mutually agreed by the parties that any claims, causes of action, or disputes which the Contractor has against the City arising from the Contract shall be brought within the following time period: (i) 180 calendar days from the date of Substantial Completion for those claims, causes of action, or disputes arising prior to the date of Substantial Completion, and (ii) 180 calendar days from the date of Final Acceptance of the Contract by the City for those claims, causes of action, or dispute arising after the date of Substantial Completion. It is further agreed that the venue for any claim, cause of action, or dispute related to this Contract shall be King County, Washington, which shall have exclusive jurisdiction over any such case, controversy, or dispute. The parties understand and agree that the Contractor's failure to bring suit within the time period provided, shall be a complete bar to any such claims or causes of action. It is further mutually agreed by the parties that when any claims, causes of action, or disputes which the Contractor asserts against the City arising from the Contract are filed with the City or initiated in court, the Contractor shall permit the City to have timely access to any records deemed necessary by the City to assist in evaluating the claims, action, or dispute.

8.11 No Waiver. Failure of the City to declare any breach or default immediately upon occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

8.12 Sole Authority/Discretion/Judgment. Where the Contract Documents provide the City or its Engineer with "sole" authority, discretion, or judgment, such authority, discretion, or judgment shall be considered unconditional and absolute.

8.13 Governing Law. This Contract shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington.

8.14 Authority. Each individual executing this Contract on behalf of the City and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Contract on behalf of the Contractor or City.

8.15 Engineer. The Engineer is the City's representative who directly supervises the engineering and administration of a construction Contract. The Engineer's authorities, duties, and responsibilities are limited to those specifically identified in the Contract Documents. Designation of an individual or entity as the Engineer for the Project is solely to identify the representative of the City as the entity to act as the Engineer as described in the Contract Documents. Using the term "engineer" does not imply that such entity or person is a licensed professional engineer or an engineering company and does not import any additional obligations upon the actions of the Engineer that may govern licensed professional engineers when performing engineering services.

The Engineer for this Project is designated as: Claribel Orellana

8.16 Notices. Any notices required to be given to Contractor or to the Engineer shall be delivered to the Parties at the addresses set forth below. Any notices may be delivered personally to the addressee of the

notice or may be deposited in the United States mail, postage prepaid, to the address set forth herein. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

CONTRACTOR:           Company  
                              Attn: Individual to receive notices  
                              Street Address  
                              City, State, Zip

PROJECT ENGINEER:  
                              City of Federal Way  
                              Attn: Project Engineer – Claribel Orellana  
                              33325 8th Ave S  
                              Federal Way, WA 98003

8.17 Captions. The respective captions of the Sections of this Contract are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect in any respect any of the provisions of this Contract.

8.18 Performance. Time is of the essence of this Contract and each and all of its provisions in which performance is a factor. Adherence to completion dates is essential to the Contractor's performance of this Contract.

8.19 Compliance with Ethics Code. If a violation of the City's Ethics Resolution No. 91-54, as amended, occurs as a result of the formation and/or performance of this Contract, this Contract may be rendered null and void, at the City's option.

8.20 Liquidated Damages. Time is of the essence of the Contract. Delays inconvenience the public and cost taxpayers undue sums of money, adding time needed for administration, inspection, and supervision. It is impractical for the City to calculate the actual cost of delays. Accordingly, the Contractor agrees to pay liquidated damages calculated on the following formula for its failure to complete this Contract on time:

- (1) To pay (according to the following formula) liquidated damages for each working day beyond the number of working days established for completion, and
- (2) To authorize the City to deduct these liquidated damages from any money due or coming due to the Contractor.

#### LIQUIDATED DAMAGES FORMULA

$$LD = \frac{0.15C}{T}$$

where: LD = Liquidated damages per working day (rounded to the nearest dollar).  
C = Original Contract amount.  
T = Original time for completion.

When the Work is completed to the extent that the City has full and unrestricted use and benefit of the facilities, both from an operational and safety standpoint, the City may determine the Work is complete. Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete this entire Contract.

Pursuant to RCW 39.08.010, the Contractor's payment and performance bonds must be conditioned upon: (i) faithful performance of all of the provisions of the Contract, including warranty obligations; (ii) the payment of all laborers, mechanics, Subcontractors, and Suppliers, and all persons who supply such persons with provisions or supplies in carrying out the Work; and (iii) payment of any taxes, liabilities, increases, or penalties incurred on the Project under Titles 50, 51, and 82 RCW which may be due on (a) projects referred to in RCW 60.28.011(1)(b), and (b) projects for which the bond is conditioned on the payment of such taxes, liabilities, increases, or penalties. Contractor's obligations under this Contract shall not be limited to the dollar amount of the bond.

**CITY OF FEDERAL WAY:**

**ATTEST:**

**APPROVED AS TO FORM:**

**CONTRACTOR:**

Printed Name of Authorized Individual

---

*Street Address*

City, State, Zip

[illegible]

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_ that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

## CITY HALL ELEVATOR MODERNIZATION

**PROJECT #01-990 / RFB #26-004**



GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary's signature \_\_\_\_\_  
Notary's printed name \_\_\_\_\_  
Notary Public in and for the State of Washington.  
My commission expires \_\_\_\_\_

On this day personally appeared before me, \_\_\_\_\_, to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the name as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary's signature \_\_\_\_\_  
Notary's printed name \_\_\_\_\_  
Notary Public in and for the State of Washington.  
My commission expires \_\_\_\_\_

On this day personally appeared before me, \_\_\_\_\_, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary's signature \_\_\_\_\_  
Notary's printed name \_\_\_\_\_  
Notary Public in and for the State of Washington.  
My commission expires \_\_\_\_\_

# **SAMPLE CONTRACT CHANGE ORDER**

PROJECT NUMBER

AGREEMENT NUMBER

CHANGE ORDER NUMBER

EFFECTIVE DATE

PROJECT TITLE

CONTRACTOR

## **SUMMARY OF PROPOSED CHANGES:**

This Change Order covers the work changes summarized below:

The time provided for completion in the Contract is

- ☐ Unchanged  
☐ Increased by \_\_\_\_ Working Day(s)  
☐ Decreased by \_\_\_\_ Working Day(s)

This Document shall become an Amendment to the Contract and all provisions of the Contract not amended herein will apply to this Change Order.

Will this change affect expiration or extent of Insurance coverage?  
If "Yes" Will the Policies Be Extended?

☐ Yes ☐ No  
☐ Yes ☐ No

## **MODIFICATIONS TO UNIT PRICES:**

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>PREVIOUS UNIT PRICE</u>	<u>REVISED UNIT PRICE</u>	<u>ADD OR DELETE</u>
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THESE ITEMS ARE APPROXIMATE OR ESTIMATED QUANTITIES INVOLVED IN THIS CHANGE:

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>UNIT PRICE</u>	<u>ADD OR DELETE</u>
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**TOTAL NET CONTRACT:**

**INCREASE \$**

**DECREASE \$**

## **DEPARTMENT RECAP TO DATE:**

ORIGINAL CONTRACT AMOUNT	\$ _____
PREVIOUS CHANGE ORDERS	\$ _____
THIS CHANGE ORDER	\$ _____
NEW CONTRACT AMOUNT	\$ _____

## **STATEMENT:**

*Payment for the above work will be in accordance with applicable portions of the standard specifications, and with the understanding that all materials, workmanship and measurements shall be in accordance with the provisions of the standard specifications, the contract plans, and the special provisions governing the types of construction. The execution of this Change Order shall constitute full satisfaction and a waiver of any and all*

**CITY OF FEDERAL WAY**

**RFB-23**

**CITY HALL ELEVATOR MODERNIZATION**

**PROJECT #01-990 / RFB #26-004**

CFW RFB VERSION 2025-SEPT (UNOFFICIAL COPY - PLEASE REFER TO [HTTP://FEDERALWAYWA.BONFIREHUB.COM](http://federalwaywa.bonfirehub.com))

*claims by the Contractor arising out of, or relating in any way to, the Work identified, to be performed, or deleted pursuant to Change Order except as specifically described in this Change Order.*

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PUBLIC WORKS DIRECTOR

\_\_\_\_\_  
DATE

*Contract Change Order  
provided for Contractor's  
reference. Change orders  
executed during the project  
will use this form.*

## **CERTIFICATE OF INSURANCE**

*Contractor's Certificate of  
Insurance to be inserted  
here during Contract  
Execution*

**PERFORMANCE AND PAYMENT BOND**  
**CITY HALL ELEVATOR MODERNIZATION**

The City of Federal Way ("City") has awarded to \_\_\_\_\_ ("Principal"), a contract for the construction of the above referenced project, and said Principal is required to furnish a bond for performance of all obligations under the Contract and for payment in accord with Chapter 39.08 Revised Code of Washington (RCW) and (where applicable) Chapter 60.28 RCW.

The Principal, and \_\_\_\_\_ ("Surety"), a corporation organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City of Federal Way, in the sum of \_\_\_\_\_ US Dollars (\$ \_\_\_\_\_) Total Contract Amount, subject to the provisions herein.

This bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall:

- 1) Well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect; and
- 2) Pay all persons in accordance with Chapters 39.08, 39.12, and 60.28 RCW including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond shall be signed by duly authorized officers and will only be accepted if accompanied by a fully executed, original power of attorney for the office executing on behalf of the surety.

**PRINCIPAL:**

\_\_\_\_\_  
*Principal Signature* *Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Title*

**SURETY:**

\_\_\_\_\_  
*Surety Signature* *Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Title*

**LOCAL OFFICE/AGENT OF SURETY:**

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Telephone*

**BOND NO.:** \_\_\_\_\_

**APPROVED AS TO FORM:** \_\_\_\_\_  
*J. Ryan Call, City Attorney*

**RETAINAGE BOND TO CITY OF FEDERAL WAY**  
**CITY HALL ELEVATOR MODERNIZATION**

KNOW ALL PERSONS BY THESE PRESENTS that we, the undersigned, \_\_\_\_\_, as principal ("Principal"), and \_\_\_\_\_, a Corporation organized and existing under the laws of the State of \_\_\_\_\_, as a surety Corporation, and qualified under the laws of the State of Washington to become surety upon bonds of Contractors with Municipal Corporations, as surety ("Surety"), are jointly and severally held and firmly bonded to the City of Federal Way ("City") in the penal sum of: \_\_\_\_\_ (\$ \_\_\_\_\_) for the payment of which sum we bind ourselves and our successors, heirs, administrators or personal representatives, as the case may be.

A. This obligation is entered into in pursuant to the statutes of the State of Washington and the ordinances, regulations, standards and policies of the City, as now existing or hereafter amended or adopted.

B. Pursuant to proper authorization, the Mayor is authorized to enter into a certain contract with the Principal, providing for the above-referenced Project, which contract is incorporated herein by this reference ("Contract"), and

C. Pursuant to State law, Chapter 60.28 RCW, the City is required to reserve from the monies earned by the Principal pursuant to the contract, a sum not to exceed five percent (5%), said sum to be retained by the City as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or material men who shall perform any labor upon such contract or the doing of such work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the State with the respect to taxes imposed pursuant to Title 82 RCW which may be due from said Principal. Every person performing labor or furnishing supplies towards completion of said improvement or work shall have a lien on said monies so reserved, provided that such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 as now existing and in accordance with any amendments that may hereafter be provided thereto; and

D. State law further provides that with the consent of the City, the Principal may submit a bond for all or any portion of the amount of funds retained by the public body in a form acceptable to the public body conditioned upon such bond any proceeds therefrom being made subject to all claims and liens and in the same manner and priority as set forth retained percentages pursuant to Chapter 60.28 RCW; and

E. The Principal has accepted, or is about to accept, the Contract, and undertake to perform the work therein provided for in the manner and within the time set forth, for the amount of \$ \_\_\_\_\_; and

F. The City is prepared to release any required retainage money previously paid by the Principal prior to acceptance and successful operation and fulfillment of all other terms of said contract upon being indemnified by these presents,

NOW, THEREFORE, if the Principal shall perform all the provisions of the Contract in the manner and within the time period prescribed by the City, or within such extensions of time as may be granted under the Contract, and shall pay all laborers, mechanics, subcontractors and material men or women, and all persons who shall supply the Principal or subcontractors with provisions and supplies for the carrying on of said work, and if the Principal shall pay to the State all taxes imposed pursuant to Title 82 RCW which may be due from such Principal as a result of this contract then and in the event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

And the Surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby

waive notice of any change, extension of time, alterations or additions to the terms of the Contract or to the Work.

The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the Contract without notice to Surety, and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this Retainage Bond in a like amount, such increase, however, not to exceed twenty-five percent (25%) of the original amount of this bond without consent of the Surety.

Within forty-five (45) days of receiving notice that the Principal has defaulted on all or part of the terms of the Contract, the Surety shall make written commitment to the City that it will either: (a) cure the default itself within a reasonable time period, or (b) tender to the City, the amount necessary for the City to remedy the default, including legal fees incurred by the City, or (c) in the event that Surety's evaluation of the dispute is not complete or in the event the Surety disputes the City's claim of default, the Surety shall notify the City of its finding and its intent, if any, to interplead. The Surety shall then fulfill its obligations under this bond, according to the option it has elected. Should Surety elect option (a) to cure the default, the penal sum of the Bond shall be reduced in an amount equal to the costs actually incurred by the Surety in curing the default. If the Surety elects option (b), then upon completion of the necessary work, the City shall notify the Surety of its actual costs. The City shall return, without interest, any overpayment made by the Surety and the Surety shall pay to the City any actual costs which exceed the City estimate, limited to the bond amount. Should the Surety elect option (c), the Parties shall first complete participation in mediation, described in the below paragraph, prior to any interplead action.

In the event a dispute should arise between the Parties to this Bond with respect to the City's declaration of default by the Principal, the Parties agree to participate in at least four hours of mediation to resolve said dispute. The Parties shall proportionately share in the cost of the mediation. The mediation shall be administered by Judicial Dispute Resolution, LLC, 1425 Fourth Avenue, Suite 300, Seattle, Washington 98101. The Surety shall not interplead prior to completion of the mediation.

The parties have executed this instrument under their separate seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party hereto affixed, and these presents duly signed by its undersigned representatives pursuant to authority of its governing body.

**CORPORATE SEAL:**

**PRINCIPAL:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**CERTIFICATE AS TO CORPORATE SEAL**

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Principal in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal, was \_\_\_\_\_ of said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

\_\_\_\_\_



Secretary of Principal

**CORPORATE SEAL:**

**SURETY:**

By: \_\_\_\_\_  
*Attorney-in-Fact*  
*(Attach Power of Attorney)*

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE AS TO CORPORATE SEAL**

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Surety in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Surety, was \_\_\_\_\_ of the said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

\_\_\_\_\_  
*Secretary of Surety*

**APPROVED AS TO FORM:**

\_\_\_\_\_  
*J. Ryan Call, City Attorney*