

CONTRACT PROVISIONS

**132Nd AVENUE EAST AND 53Rd STREET COURT EAST
DRAINAGE IMPROVEMENTS**

City of Edgewood
Bid Set

August 30, 2021



8/30/2021

PREPARED BY:

City of Edgewood
2224 104th Avenue East
Edgewood, WA 98372

CALL FOR BIDS

CITY OF EDGEWOOD

DRAINAGE IMPROVEMENT PROJECT – 132ND AVENUE EAST AND 53RD STREET COURT EAST ENGINEER'S ESTIMATE \$171,526.00

Sealed Proposals will be received by the undersigned at the City of Edgewood, 2224 104th Avenue East, Edgewood, Washington 98372, up to 11:00 am local time on September 20, 2021, for furnishing the necessary labor, materials, equipment, tools, and guarantees thereof to construct the aforementioned Drainage Improvement Project.

This project consists of furnishing all labor, materials and equipment necessary for the construction of paving and drainage improvements at the intersection of 132nd Ave E and 53rd St Ct E, extended south to the end of road and east to Edgewood Dr E, including but not limited to: demolition, storm drainage, asphalt paving preparation and installation, curbing, and shoulder restoration.

The Work shall be substantially complete within 15 working days after the commencement date stated in the Notice to Proceed. All bidding and construction is to be performed in compliance with the Contract Provisions and Contract Plans for this project and any addenda issued thereto that are on file at the office of the City Clerk, City Hall, Edgewood, Washington.

The Proposals will be publicly opened and read aloud shortly after the time and date stated above. Proposals are to be submitted only on the form provided with the Bid Documents. All Proposals must be accompanied by a certified check, postal money order, cashier's check, or Proposal bond payable to the "City of Edgewood" and in an amount of not less than five percent (5%) of the total Proposal amount.

Bid Documents for this project are available free-of-charge at the following website: <http://gobids.grayandosborne.com>. Bidders are encouraged to register in order to receive automatic email notification of future addenda and to be placed on the Bidders List. For assistance with the website, please call (206) 284-0860. Contract questions shall be directed to Chuck Hendricksen, City Engineer, City of Edgewood, (253) 392-2560.

Financing of the Project has been provided by City of Edgewood, Washington. The City of Edgewood expressly reserves the right to reject any or all Proposals and to waive minor irregularities or informalities in any Proposal.

(Signed)

RACHEL PITZEL, CMC
CITY CLERK

CONTRACT PROVISIONS

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CITY OF EDGEWOOD

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AVENUE EAST AND 53RD STREET COURT EAST

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PART 1

BID DOCUMENTS

BIDDER'S CHECKLIST

1. REQUIRED FORMS

The Bidder shall submit the following forms, which must be executed in full and submitted with the Proposal.

- a. Proposal (including Statement of Bidder's Qualifications) (Pages P-1 - P-6)
- b. Bid Deposit or Proposal Bond (PB-1)

2. SUPPLEMENTAL BIDDER CRITERIA

The Apparent two lowest bidders shall submit to the Contracting Agency the completed Supplemental Bidder Criteria forms in the Appendix by noon of the second business day following the bid submittal deadline.

3. AGREEMENT FORMS

The following forms (a., b., and c.) are to be executed and the following Certificates of Insurance (d. and e.) are to be provided after the Contract is awarded and prior to Contract execution.

- a. Agreement (Pages A-1 - A-15)
- b. Performance Bond (Page B-1)
- c. Public Works Payment Bond (Page B-2)
- d. Certificate of Insurance
- e. Certificate of Builders Risk Insurance

**DRAINAGE IMPROVEMENT PROJECT –
132ND AVENUE EAST AND 53RD STREET COURT EAST**

ENGINEER'S ESTIMATE \$171,526.00

PROPOSAL

City of Edgewood
2224 104th Avenue East
Edgewood, Washington 98372

The undersigned has examined the Work site(s), local conditions, the Contract, and all applicable laws and regulations covering the Work. The following unit and lump sum prices are tendered as an offer to perform the Work in accordance with all of the requirements set forth in the Contract and all applicable laws and regulations.

As required by the Contract, a postal money order, certified check, cashier's check or Proposal bond made payable to the Owner is attached hereto. If this Proposal is accepted and the undersigned fail(s) or refuse(s) to enter into a contract and furnish the required performance bond, labor and material payment bond, special guarantee bonds (if required), required insurance and all other required documentation, the undersigned will forfeit to the Owner an amount equal to five percent of the Proposal amount.

After the date and hour set for submitting the Proposals, no bidder may withdraw its Proposal, unless the Award of the contract is delayed for a period exceeding 60 consecutive calendar days.

The undersigned agrees that in the event it is Awarded the contract for the Work, it shall employ only Contractors and Subcontractors that are duly licensed by the State of Washington and remain so at all times they are in any way involved with the Work.

The undersigned agrees that the Owner reserves the right to reject any or all Proposals and to waive any minor irregularities and informalities in any Proposal.

The undersigned agrees that the Owner reserves the right to Award the Contract to the lowest responsible, responsive bidder whose Proposal is in the best interest of the Owner.

PROPOSAL - Continued**SCHEDULE A: 132ND AVE E AND 53RD ST CT E DRAINAGE IMPROVEMENTS**

<u>NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1.	Minor Change (1-04.4(1))	1	CALC	\$5,000	\$5,000
2.	Survey (1-05.4(2))	1	LS	\$_____	\$_____
3.	SPCC Plan (1-07.15(1))	1	LS	\$_____	\$_____
4.	Mobilization, cleanup and demobilization (1-09.7)	1	LS	\$_____	\$_____
5.	COVID-19 Safety Plan (1-07)	1	LS	\$_____	\$_____
6.	Temporary Erosion and Sediment Control (8-01)	1	LS	\$_____	\$_____
7.	Temporary Traffic Control (including flaggers)	1	LS	\$_____	\$_____
8.	Sawcutting (2-02)	543	LF	\$_____	\$_____
9.	Removal of Existing Storm (2-02)	1	LS	\$_____	\$_____
10.	Crushed Surfacing Top Course (4-04)	143	TN	\$_____	\$_____
11.	HMA CL. ½ in. PG 58H-22" (5-04)	95	TN	\$_____	\$_____
12.	Schedule A Storm Sewer Pipe 12 In. Diameter (7-04)	512	LF	\$_____	\$_____
13.	Schedule A Storm Sewer Pipe 8 In. Diameter CL52 DI (7-04)	32	LF	\$_____	\$_____
14.	Catch Basin Type I (7-05)	6	EA	\$_____	\$_____
15.	Catch Basin Type II (7-05)	1	EA	\$_____	\$_____
16.	Connection to Drainage Structure (7-05)	1	EA	\$_____	\$_____
17.	HMA Barrier Curb / Raised Edge (8-04)	520	LF	\$_____	\$_____
18.	HMA Driveway Approach (8-06)	2	EA	\$_____	\$_____

PROPOSAL - Continued

BID SUMMARY

Subtotal (Schedule A): \$ _____

Washington State Sales Tax (0% Per W.S. Revenue Rule No. 171): \$ _____ **0.00**

TOTAL CONSTRUCTION COST (SCHEDULE A): \$ _____

Note: A bid must be received on all items.

PROPOSAL - Continued

STATEMENT OF BIDDER'S QUALIFICATIONS

Name of Firm: _____

Address: _____

Telephone No. _____ Fax No. _____

Contact Person for this Project: _____

E-mail: _____

Number of years the Contractor has been engaged in the construction business under the present firm name, as indicated above:

WORK TO BE COMPLETED BY BIDDER

List the Work and the dollar amount thereof that the Bidder will complete with its forces, if awarded the contract.

Work to be Performed	Dollar Amount

PROPOSED SUBCONTRACTORS (Per RCW 39.30.060)

For Proposals exceeding one million dollars, indicate who (either the Contractor submitting this bid or a subcontractor) will be completing the work for each of the categories listed below. Information shall include their Washington State Department of Licensing Contractor's Registration No. This information shall be provided with the Proposal or within one hour after the published Proposal submittal time in accordance with RCW 39.30.060.

Work to be Performed	Subcontractor or Prime (Name and Registration Number)

PROPOSAL - Continued

ADDENDA RECEIVED

Addendum No.	Date Received	Name of Recipient

NOTE: Bidder shall acknowledge receipt of all addenda. Bidder is responsible for verifying the actual number of addenda issued prior to submitting a Proposal.

Subject to any extensions of the Contract time granted under the Contract, the undersigned agrees to substantially complete the Work required under this Contract and to physically complete the Work required under this contract within the working days from when Contract Time begins as indicated in the table below.

	Time from NTP to Substantial Completion	Time from NTP to Physical Completion
Schedule A	15 working days	20 working days

The undersigned has reviewed and fully understands the provisions in the Contract regarding liquidated damages and agrees that liquidated damages shall be \$1,000.00 per day for each and every working day beyond the Contract time allowed for substantial completion until the Substantial Completion Date is achieved and \$500.00 for each and every working day required beyond the Contract Time for physical completion until the Physical Completion Date is achieved.

The undersigned is, and will remain in, full compliance with all Washington State administrative agency requirements including, but not limited to registration requirements of Washington State Department of Labor & Industries for contractors, including but not limited to requirements for bond, proof of insurance and annual registration fee. The undersigned's Washington State:

Dept. of Labor and Industries Workman's Compensation Account No. is _____;
Dept. of Licensing Contractor's Registration No. is _____;
Unified Business Identifier Number is _____;
Excise Tax Registration Number is _____; and
Employment Security Account Number is _____.

The undersigned has reviewed all insurance requirements contained in the Contract and has verified the availability of and the undersigned's eligibility for all required insurance. The undersigned verifies that the cost for all required insurance, has been included in this Proposal.

In relation to claims related in whole or in part to workplace injuries to employees, the undersigned waives any immunity granted under the State Industrial Insurance Law, RCW Title 51. This waiver has been specially negotiated by the parties, which is acknowledged by the undersigned in signing this Proposal.

PROPOSAL - Continued

By signing the proposal, the undersigned declares, under penalty of perjury under the laws of the United States and the State of Washington, that the following statements are true and correct:

1. That the undersigned person(s) or entity(ies) 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 the project for which this Proposal is submitted.
2. The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (August 30, 2021), that the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as 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.

The undersigned agrees that the Owner is authorized to obtain information from all references included herein.

Sincerely,

_____ Sign Name	_____ Date
--------------------	---------------

By: _____ Print Name, Title	_____ Location Executed (City, State)
--------------------------------	--

Print Company Name

Amount of Proposal deposit: \$ _____ Check No. _____,

or Proposal bond in the amount of \$ _____

_____, issued through _____
Name of Bank/Bonding Company

located at _____
Mailing Address

Telephone Number of Bank/Bonding Company

PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS, That we _____

_____ of _____ as principal, and the _____

_____ a corporation duly organized under the laws of the state of _____, and authorized to do business in the State of Washington, as surety, are held and firmly bound unto the **CITY OF EDGEWOOD** in the full and penal sum of five percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following construction project, to wit:

**DRAINAGE IMPROVEMENT PROJECT –
132ND AVENUE EAST AND 53RD STREET COURT EAST**

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said Contract and shall furnish bond as required by the **CITY OF EDGEWOOD** within a period of 10 days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be signed and sealed this _____ day of _____, _____.

(Principal)

(Surety)

(Attorney-in-fact)

PART 2

AGREEMENT AND BONDS

PUBLIC WORKS CONTRACT

1. **Contract and Parties.** This Public Works Contract (“Contract”) is between the CITY OF EDGEWOOD, Pierce County, Washington (“City”), a Washington municipal corporation and _____ (“Contractor”), a corporation organized under the laws of the State of Washington. The City and Contractor are each a “Party” and together the “Parties” to the Contract. The Parties agree as follows.
2. **Project.** The Parties enter into this Contract for purposes of Contractor providing the City with equipment, materials and performing work for the City (“the Project”), generally described as:

DRAINAGE IMPROVEMENT PROJECT – 132ND AVENUE EAST AND 53RD STREET COURT EAST, to include furnishing all labor, materials and equipment necessary for the construction of paving and drainage improvements at the intersection of 132nd Ave E and 53rd St Ct E, extended south to the end of road and east to Edgewood Dr E, including but not limited to, demolition, storm drainage, asphalt paving preparation and installation, curbing, and shoulder restoration as further described in the Bid Documents.
3. **Effective date.** This Contract becomes effective and binding upon the Parties, including each Party’s heirs, successors, and assigns, immediately upon execution of this contract by both parties.
4. **Notices to Parties.** Contractor agrees to accept notices under this Contract via email. It is the responsibility of Contractor to notify the City in writing if any of the contact information appearing below should change. Any notices required under this Contract shall be in writing and delivered to the following addresses. If notice by email, a hard copy shall be delivered or mailed the same date as email.

CITY:

CITY OF EDGEWOOD
2224 104th Ave E
Edgewood, WA 98372-1513
Contact: Chuck Hendricksen
Phone: (253) 392-2560
Email: chuck@cityofedgewood.org

CONTRACTOR:

Address: _____

Contact: _____
Phone: _____
Email: _____
Tax ID #: _____

5. **Notice to Proceed / Completion Time.** Contractor will commence the work set forth herein immediately after receiving written notice from the City to proceed, and further agrees to carry on such work regularly and uninterruptedly thereafter with such force as to secure its completion within 20 working days, after such notice to begin work. The time of beginning, rate of progress and time of completion are essential conditions of this Contract.
6. **Obligations of Contractor.** The following terms and conditions apply to this Contract:

A. In general.

- (1) Responsible for all labor and work. Contractor shall be solely responsible for furnishing all labor and performance of all work necessary to complete the Project as required.
- (2) Responsible for furnishing all materials and equipment. Contractor shall furnish all materials and equipment necessary to complete the Project, except for any materials expressly agreed in writing to be provided by the City.
- (3) Documents incorporated by reference. All terms and specifications contained in any Request for Bids that was issued by the City as part of determining the awarding of this Contract are hereby incorporated by reference and must be complied with by Contractor, unless one or more of such terms and specifications are expressly amended or waived in writing by the City. The Contractor agrees to perform all work in accordance with this Contract and the following documents, incorporated herein:
 - This Contract
 - Scope of Work
 - Plans and Contract Drawings
 - 2022 WSDOT / APWA Standard Specifications for Road, Bridge, and Municipal Construction
 - Supplementary General Conditions
 - Bid Documents
 - Contractor's Proposal
 - Addenda (if any)
 - Performance and Bid Bond
 - All provisions required by law to be inserted into this Contract, whether actually attached hereto or not

In the event of a conflict between the provisions of any of the contract documents listed above, the provisions of the document first listed shall prevail.

- (4) Laws and regulations to be followed. Contractor, its employees, agents, and subcontractors, shall at all times fully comply with all applicable laws, regulations, and administrative rulings in performing work for the Project.

- (5) Work Hours. Contractor shall not work on weekends. On Mondays through Fridays, Contractor shall not start work before 7:00 AM, and shall not work after 5:00 PM.
- (6) Conditions of Work. By submitting a bid, Contractor represents and warrants to the City that Contractor has fully informed itself of all conditions relating to the work involved in completing the Project. In prosecuting the work, Contractor shall employ such methods or means as will not interfere with or interrupt the work of the City or its agents, employees or contractors.
- (7) Contractor's Responsibility. Contractor will prosecute the work in accordance with instructions, descriptions and/or plans and specifications provided by the City. Contractor shall carry on the work at its own risk until the same is fully completed and accepted, and shall, in case of any accident, destruction or injury to the work and/or materials before its final completion and acceptance, repair or replace forthwith the work and/or materials so injured, damaged or destroyed, at his/her own expense and to the satisfaction of the City. When materials and equipment are furnished by others for installation or erection by Contractor, Contractor shall receive, unload, store and handle same at site and become responsible therefore as though such materials and/or equipment were being furnished by Contractor. Contractor shall procure all permits (unless permits are secured or waived by the City) and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work. Contractor shall be responsible for preparing working drawings, if applicable, and shall submit them to the City for approval prior to commencement of work. For purposes of this Contract, working drawings shall mean, shop drawings, shop plans, erection plans, false-work plans, framework plans, cofferdam, cribbing and shoring plans, or any other supplementary plans or similar data, including a schedule of submittal dates for working drawings where specified, which Contractor will rely on for purposes of conducting the work for the Project.
- (8) Contractor Clean-Up. Prior to physical completion, all debris resulting from Contractor's work, delivery or installation of equipment shall be disposed of entirely by Contractor in an efficient and expeditious manner as required and directed by the City.
- (9) Safety. Contractor and its subcontractors shall take all safety precautions and furnish and install all guards necessary for the prevention of accidents, and shall comply with all laws and regulations with regard to the prosecution of the work. Contractor agrees to furnish Material Safety Data Sheets (Form OSHA-20) applicable for hazardous or potentially hazardous products. Contractor agrees to comply with the conditions of the Washington Industrial Safety and Health Act of 1970, and standards and regulations issued thereunder, and certify that all items furnished and purchased will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless the City from damages assessed against the City because of Contractor's failure to comply with the Acts and the standards issued thereunder and for the failure of the items furnished under this order to so comply.

B. Work Performance.

- (10) Prevailing wages. Contractor shall pay the then current prevailing wages, as that term is defined under the laws of the State of Washington, for all work performed on this Project by Contractor and by Contractor's employees, agents and subcontractors. Contractor is fully responsible for prevailing wage compliance. Upon execution of this Contract, Contractor, and any subcontractors, shall file a "Statement of Intent to Pay Prevailing Wages" with L&I and file a copy of the Statement of Intent to Pay Prevailing Wages with the City. The City shall not make any payments or reimbursements under the Agreement prior to receipt of all required Intent to Pay Prevailing Wages forms.

For reference only, and without relieving any Contractor responsibility, the City notes the State of Washington prevailing wage rates for public works projects located in Pierce County may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. Upon request, the City will mail a hard copy of the applicable prevailing wages for this Project. Contractor is advised that this if this contract extends into multiple years, prevailing wage rates are updated annually.

- (11) Notice to City. Minimum two (2) working days' prior notice shall be given to the City's Department of Public Works prior to commencement of work under this Contract.
- (12) Approved Plans & Specifications to be followed. All work is to be performed to the City's satisfaction and in compliance with the Contract Documents listed in section 6.A(3) above, unless such requirements or specifications are expressly amended in writing by the City.
- (13) Schedule of Work to be followed. All Work shall be performed by the date for completion provided in this Contract. Contractor shall diligently proceed with the work and shall assure that it, and its subcontractors, have adequate staffing at all times in order for Contractor to comply with any Schedule of Work agreed to by the Parties, and shall make all reasonable efforts to complete the work in a timely manner.
- (14) Duty to Correct. Contractor shall promptly correct work rejected by the City as failing to conform to the requirements of the Contract. The Contractor shall bear the cost of correcting such rejected work. If the Contractor fails to correct nonconforming work within a reasonable time, the City may correct it and Contractor shall reimburse the City for the cost of the correction.
- (15) Project Administration. The Public Works Director, or his or her designee, shall administer this Contract and shall have all authority provided for the City under this Contract including all project approvals, including change orders. All work performed under this Contract will be monitored and inspected by the Public Works Director or his or her designee, and accepted by same.

c. Non-Discrimination.

- (16) Contractor, Contractor's officers and employees, and its subcontractors and agents, shall not discriminate against any employee or applicant for employment or any other person in the performance of this Contract because of race, creed, color, national origin, marital status, sex, age, disability, or other condition prohibited by federal, state, or local law or ordinance, except where the condition constitutes a bona fide occupational qualification under law.
- (17) Any violation of this Section shall be a material breach of this Contract and grounds for immediate cancellation, termination, or suspension of the Contract by the City, in whole or in part, and may result in Contractor being ineligible to perform further work for the City.

7. Compensation and Payment

- A. The City shall pay the Contractor for the work performed under this contract as follows (select one):
- ☐ Time and materials; not to exceed _____ plus all applicable taxes.
 - ☐ Lump sum price set forth on the Contractor's proposal; not to exceed _____ plus all applicable taxes.
 - ☒ Unit prices set forth in the Contractor's proposal; not to exceed _____ plus all applicable taxes.
- B. Contractor shall request approval and acceptance of each category of work from the City. Contractor may not bill for the completed work until the City has accepted the completed work.
- C. All invoices shall be submitted for work after it has been performed, and paid by City warrant within thirty (30) days of receipt of a proper invoice, except those required to be withheld by law or agreed to in special contract provisions.
- D. Failure to perform any of the obligations under the Contract by Contractor may be decreed by the City to be adequate reason for withholding any payments until compliance is achieved. Progress payments for work performed shall not be evidence of acceptable performance or an admission by the City that any work has been satisfactorily completed.
- E. Payments received on account of work performed by a subcontractor are subject to the provisions of RCW 39.04.250.

- 8. Performance Bond.** If applicable, the Contractor shall provide a performance and payment bond to the City prior to commencement of work for 100% of the bid amount guaranteeing the full and faithful performance by Contractor of the terms and conditions of this Contract

and the payment of all labor, mechanics, subcontractors, and materialmen and all persons who supply them with provisions and supplies for carrying out the work under this contract. This bond shall be in force until completion of the contract and also upon such period thereafter during which the law allows liens to be filed and sued upon. This performance bond shall be furnished by a corporate surety company authorized to do business in the State of Washington, in a company acceptable to the City and on the form attached hereto.

Initial: _____(Contractor)

9. **Retainage.** Pursuant to Chapter 60.28 RCW, a sum of five percent (5%) of the monies earned by Contractor will be retained from each invoice. Such retainage shall be used as a trust fund for the protection and payment: (1) to the State with respect to taxes imposed pursuant to RCW Title 82, and (2) the claims of any person arising under the Contract. No final payment or release of any retainage will be made until Contractor and each subcontractor has submitted an "Affidavit of Wages Paid" (LI 700-7 or other approved form) that has been certified by the industrial statistician of the Department of Labor and Industries. In addition, the retainage will not be released until the City has received certification that the Department of Revenue has received due payment of applicable taxes. Once the City has received certification from appropriate departments of the state of Washington, 45 days has passed from the date of acceptance of the Project and the City has not received any claims against the Project, then the City will release the retainage.
10. **Changes.** After execution of the Contract, changes in the scope of the work set forth in the Bid Documents may be accomplished by change order. Change orders shall be in writing signed by the Parties.
11. **Term and Termination of Contract.** This Agreement shall be in full force and effect for a period commencing upon execution and ending _____ unless extended or sooner terminated under the provisions of this Contract. Time is of the essence of this Contract in each and all of its provisions in which performance is required. Further, this Contract may be terminated by the City at any time upon the default of the Contractor or upon public convenience, in which Contractor shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination. Contractor shall not be entitled to any reallocation of cost, profit or overhead. Contractor shall not in any event be entitled to anticipated profit on work not performed because of such termination. Contractor shall use its best efforts to minimize the compensation payable under this Contract in the event of such termination. If the contract is terminated for default, Contractor shall not be entitled to receive any further payments under the Contract until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to Contractor. Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Contract.

12. Responsibility Criteria and Verification by Contractor. Pursuant to Chapter 39.04 RCW, the following requirements are part of this Contract:

A. Responsibility Criteria.

(1) Eligibility to be awarded contract. Contractor hereby certifies that Contractor meets the following responsibility criteria:

- a. Contractor has a certificate of registration in compliance with chapter 18.27 RCW;
- b. Contractor has a current state unified business identifier number;
- c. If applicable, Contractor has industrial insurance coverage for Contractor's employees working in Washington as required under 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; and
- d. Contractor is not disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);

B. *Requirement to verify subcontractors.* Contractor verifies the responsibility criteria contained above for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors and that each subcontractor verify the responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. This verification requirement must be included in every subcontract of every tier.

13. Insurance.

A. Insurance Term

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

B. No Limitation

The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations for a period of three years following substantial completion of the work for the benefit of the City, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an endorsement providing at least as broad coverage. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until the City has granted substantial completion of the project. An installation floater may be acceptable in lieu of Builders Risk for renovation projects only if approved in writing by the City.

D. Minimum Amounts of Insurance

The Contractor shall maintain the following insurance limits:

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

3. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

E. City Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

F. Other Insurance Provision

The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

G. Contractor's Insurance for Other Losses

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

H. Waiver of Subrogation

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

I. Acceptability of Insurers

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

J. Verification of Coverage

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project. Upon request by the City, the Contractor shall furnish certified copies of all required

insurance policies, including endorsements, required in this Contract and evidence of all subcontractors' coverage.

K. Subcontractors

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

L. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

M. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

14. Claims for damages.

- A. Excluded situations. The City shall not be responsible for delays caused by soil conditions; underground obstructions; labor disputes; fire; delays by third parties, including public and private utilities; or reasonably foreseeable delays.
- B. Liability limited to direct costs. Contractor agrees that the City's liability to Contractor for payment of claims or damages of any kind whatsoever related to this Contract shall be limited to direct costs as provided under the force account provisions of applicable standard specifications. Contractor expressly waives all claims for payment of damages that include or are computed on total costs of job performance, extended overhead, or other similar methods that are not specific as to the actual, direct costs of contract work as defined in the force account provisions of applicable standard specifications.
- C. "Damages" defined. For purposes of applying RCW 4.24.115 to this Contract, Contractor and the City agree that the term "damages" applies only to a finding in a judicial proceeding and is exclusive of third party claims for damage primarily thereto.
- D. Indemnification. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims,

injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further agreed that claims for damages against the City for which Contractor's insurance carrier does not accept defense of the City may be tendered by the City to Contractor, who shall then accept and settle with the claimant or defend the claim. The City retains the right to approve claims investigation and counsel assigned to said claims, and all investigation of legal work product regarding said claims shall be performed under a fiduciary relationship to the City.

It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Contract.

15. Assigning or Subcontracting. Contractor shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Contract without the express prior written consent of the City.

16. Independent Contractor. Contractor is and shall be at all times during the term of this Contract an independent contractor. Any and all employees of the Contractor, while engaged in the performance of any work or services required by the Contractor under this Contract, shall be considered employees of the Contractor only and not of the City. The Contractor will solely be responsible for its acts and for the acts of its agents, employees, subcontractors, or representatives during the performance of this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to Contractor or any employee of the Contractor.

17. Disputes. Any action for claims arising out of or relating to this Contract shall be governed by the laws of the State of Washington. Venue shall be in Pierce County Superior Court.

18. Attorney's Fees. In any suit or action instituted to enforce any right granted in this Contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

19. Extent of Contract/Modification. This Contract, together with attachments or addenda, represents the entire and integrated agreement between the parties hereto and supersedes all prior

negotiations, representations, or agreements, either written or oral. This Contract may be amended, modified or added to only by written instrument properly signed by both parties. Should any language in any of the Exhibits or Contract Documents conflict with language contained in this Contract, the provisions of this Contract shall prevail.

20. Use and Ownership of Logos and Documents. The Contractor will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent. On payment to the Contractor by the City of all compensation due under this Contract, all finished or unfinished documents and material prepared by the Contractor with funds paid by the City under this Contract shall become the property of the City and shall be forwarded to the City upon its request. Any records, reports, information, data or other documents or materials given to or prepared or assembled by the Contractor under this Contract will be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the City or by court order.

21. Non-waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options, and the same shall be and remain in full force and effect.

22. Severability. Any provision or part of the Contract held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as reasonably possible to expressing the intention of the stricken provision.

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS CONTRACT AND AGREES TO BE BOUND BY THEM.

CITY OF EDGEWOOD

CONTRACTOR

By: _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

Ann Marie J. Soto, City Attorney

Attachments

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ (*Corporate Officer (Not Contract Signer)*) certify that I am the _____ (*Corporate Title*) of the corporation named as Contractor in the Contract attached hereto; that _____, (*Contract Signer*) who signed said Contract on behalf of Contractor, was then _____ (*Corporate Title*) of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate Officer Signature (*not Contract Signer*)

Print Name

Title

State of _____

County of _____

_____, (*Corporate Officer (not Contract Signer)*) being duly sworn, deposes and says that he/she is _____ (*Corporate Title*) of _____ (*Name of Corporation*).

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

Notary Public (Signature)

Notary Public (Print)

My commission expires _____

PERFORMANCE BOND to CITY OF EDGEWOOD, WA

Bond No. _____

The **CITY OF EDGEWOOD**, Washington, (City) has awarded to _____ (Principal), a contract for the construction of the project designated as the Drainage Improvement Project – 132nd Avenue East and 53rd Street Court East in Edgewood, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

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, in the sum of _____ US Dollars (\$_____) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all the 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 full force and effect and the City, as obligee, may file a claim against such performance bond.

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 may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature	Date
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Surety Signature	Date
------------------	------

Printed Name _____

Printed Name _____

Title _____

Title _____

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

City Attorney, City of Edgewood

Date _____

to CITY OF EDGEWOOD, WA

Bond No. _____

The **CITY OF EDGEWOOD**, Washington, (City) has awarded to _____ (Principal), a contract for the construction of the project designated as the Drainage Improvement Project – 132nd Avenue East and 53rd Street Court East in Edgewood, Washington (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 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, in the sum of _____ (\$ _____) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Titles 39.08, 39.12 and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons 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 Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect and the City, as obligee, may file a claim against such payment bond.

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, except as provided herein, 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 may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature	Date
---------------------	------

Date _____

Surety Signature _____ Date _____

Date

Printed Name _____

Printed Name

Printed Name _____

Printed Name

Title

Title

Title _____

Title

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

City Attorney, City of Edgewood

Date _____

PART 3

SUPPLEMENTAL GENERAL CONDITIONS AND GENERAL CONDITIONS

SUPPLEMENTARY GENERAL CONDITIONS

The General Conditions shall be supplemented as follows:

Section 3.03.2 SAFETY MEASURES

Supplement this section with the following:

“In response to COVID-19, the Contractor shall prepare a project specific COVID-19 Health and Safety Plan (CHSP). A copy of the CHSP developed by the Contractor shall be submitted to the Engineer.

The CHSP shall be prepared and submitted prior to beginning physical Work.

The Contractor shall update and resubmit the CHSP as the work progresses and new activities appear on the Look Ahead Schedule required under Section 3.04.15(1). If the conditions change on the project, or a particular activity, the Contractor shall update and resubmit the CHSP. Work on any activity shall cease if conditions prevent full compliance with the CHSP.

The CHSP shall address the health and safety of all people associated with the project including Owner representative and workers in the field, Contractor personnel, consultants, project staff, subcontractors, suppliers and anyone on the project site, staging areas, or yards. The plan shall contain the following minimum elements:

1. The CHSP shall identify all standards, guidance, publications, and sources on which it is based. Those standards may include references to OSHA, WISHA, and CDC publications that are current at the time the CHSP is prepared.
2. The CHSP shall identify a responsible individual from the Contractor who is responsible for implementation of the CHSP. The individual(s) contact information shall be listed in the CHSP.
3. The CHSP shall specifically identify the project for which it is applicable, and if applicable, shall address project work areas outside the project limits such as staging areas or yards.
4. The CHSP shall identify the personal protective equipment (PPE) and administrative and engineered controls necessary to maintain a safe site. This includes but is not limited to: sanitation resources, screening stations, safety briefings, controlling access, and PPE needed to protect workers from COVID-19.

5. The CHSP shall identify measures for screening and managing workers or visitors to areas identified in the CHSP. The plan shall include procedures should a person exhibit symptoms of COVID-19.
6. The CHSP shall identify how the plan will be updated as new work activities are added with each Look-Ahead Schedule. The CHSP updates shall identify the number of workers, crews, work tasks, and the degree of congestion or confinement workers will experience for the work activities in the Look-Ahead Schedule.
7. The CHSP shall include how the Contractor will ensure everyone on the site has been trained on the CHSP requirements. This includes subcontractors, suppliers, and anyone on the project site.

Costs for development and implementation of the CHSP shall be included in other items of work.

No work shall be performed on the site until the Owner has accepted the COVID-19 Health and Safety Plan.”