



DEPARTMENT OF PUBLIC WORKS
Scott Schafer, Director

Engineering Division
129 North Second Street
Yakima, Washington 98901
(509) 575-6111 • Fax (509) 576-6305

June 28, 2021

Thayer Excavating, LLC
2131 Riverbottom Road
Ellensburg, WA 98926

Re: Spring Creek Road Improvement Project, Ph.3, Wetland Mitigation Area Construction
City Project No.: 2549

Dear Sirs,

The City Manager of the City of Yakima has authorized an award of the contract for the above referenced project to your company on the basis of your bid submitted on June 21, 2021 in the amount of \$496,596.79.

This letter is official notification of the award of the contract to your company by the City of Yakima.

Enclosed are a copy of the proposal, three copies of the contract and a contract bond form. Please sign and return all copies of the contract form to this office, along with the fully executed performance bond and certificate of insurance, within ten (10) calendar days.

When these items have been approved, the City will execute the contract form and bind a signed contract, certificate, and proposal into three (3) sets of contract documents. The three completed sets of documents will be distributed to the City Clerk, City Engineer and Contractor.

Once the Contract Bond and Insurance Certificate have been approved we will notify you to contact Bruce Floyd, Construction Supervisor, of our office to schedule a pre-construction conference and to discuss various forms and documentation that must be completed and turned into him at the Pre-construction Conference. The Notice to Proceed will also be discussed at the Pre-construction Conference. Bruce's office phone is (509) 575-6138.

For your information, we are enclosing a copy of the bid summary for this project.

Sincerely,

Bill Preston, PE
City Engineer

encl.

cc: Bruce Floyd, Construction Engineer
Randy Tabert, Acting Senior Engineer
Brenda Fehlhafer, Contract Specialist
File

CONTRACT

THIS AGREEMENT, made and entered into in triplicate, this ____ day of _____, 2021, by and between the City of Yakima hereinafter called the Owner, and Thayer Excavating, LLC, a Washington Limited Liability Company hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall do all work and furnish all tools, materials, labor and equipment for THE BID AMOUNT OF: **\$496,596.79**, for **Spring Creek Road Improvement Project, Phase 3 – Wetland Mitigation Area Construction #2549**, all in accordance with, and as described in the attached specifications and the 2021 Standard Specifications for Road, Bridge, and Municipal Construction which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this contract and every part thereof.

Work shall start within ten (10) days after the Notice to Proceed and shall be completed in **thirty (30)** working days. The first chargeable working day shall be the 11th working day after the date on which the City issues the Notice to Proceed.

If said work is not completed within the time specified, the Contractor agrees to pay to the Owner the sum specified in the Standard Specifications for each and every day said work remains uncompleted after expiration of the specified time, as liquidated damages.

The Contractors shall provide and bear the expense of all equipment; work and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this contract and every part thereof, except such as are mentioned in the specifications to be furnished by the City of Yakima.

II. The City of Yakima hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same according to the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the conditions provided for in this contract.

III. INDEMNIFICATION. The Contractor shall defend, indemnify, and hold harmless the City, its officers, elected officials, employees and agents from and against any and all claims, causes of action, damages, losses, and expenses of any kind or nature whatsoever, including but not limited to, attorney's fees and court costs, arising out of, relating to, or resulting from The Contractor's performance or non-performance of the services, duties and obligations required of it under this Agreement.

IV. The Contractor for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

V. It is further provided that no liability shall attach to the City of Yakima by reason of entering into this contract, except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed the day and year first herein above written.

Countersigned: **CITY OF YAKIMA**

CONTRACTOR

this ____ day of _____ 2021.

Thayer Excavating, a WA Corporation
Contractor

City Manager

By: Todd Thayer
Todd Thayer
(Print Name)

Attest:

City Clerk

Its: member
(President, Owner, etc.)

Address: 2131 Riverbottom Rd
Ellensburg, WA 98926

CONTRACT BOND
BOND TO CITY OF YAKIMA

KNOW ALL MEN BY THESE PRESENTS:

That whereas the City of Yakima, Washington has awarded to **Thayer Excavating, LLC** (*Contractor*) hereinafter designated as the "Principal" a contract for the construction of the project designated **Spring Creek Road Improvement Project, Phase 3 – Wetland Mitigation Area Construction #2549**, all as hereto attached and made a part hereof and whereas, said principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract:

NOW, THEREFORE, we, the principal, and _____ (*Surety*), a corporation, organized and existing under and by virtue of the laws of the State of _____, duly authorized to do business in the State of Washington, as surety, are jointly and severally held and firmly bound unto the City of Yakima, Washington, in the penal sum of \$ _____ (*Total Contract Amount*) lawful money of the United States, the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

THE CONDITIONS OF THIS BOND IS SUCH, that if the above bonded principal shall faithfully perform all of the provisions of said contract in the manner and within the time therein set forth, or within such extensions of time as may be granted under said contract, and shall pay all laborers, mechanics, sub-contractors and materialmen; the claims of any person or persons arising under the contract to the extent such claims are provided for in RCW 39.08.010; the state with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due; and all persons who shall supply said principal or sub-contractors with provisions and supplies for the carrying on of said work, and shall hold said City of Yakima, Washington, their employees, agents, and elected or appointed officials, harmless from any damage occasioned to any person or property by reason of any carelessness or negligence on the part of said principal, or any sub-contractor in the performance of said work, and shall indemnify and hold the City of Yakima, Washington, its employees, agents, and elected or appointed officials, harmless from any damage or expense by reason of failure of performance as specified in said contract, or from defects appearing or developing in the material or workmanship provided or performed under said contract after its acceptance thereof by the City of Yakima, Washington, and all claims filed in compliance with Chapter 39.08 RCW are resolved and all taxes pursuant to Titles 50 and 51 and 82 RCW have been paid, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

This obligation is entered into in pursuance of the statutes of the State of Washington, and the Ordinances of the City of Yakima, Washington.

IN WITNESS WHEREOF, the said principal and the said surety have caused this bond to be signed and sealed by their duly authorized officers this

_____ day of _____, 2021.

(Principal)

By: _____
(Signature)

(Print Name)

Approved as to form:

(Title)

(City Attorney)

(Surety)

By: _____
(Signature)

(Print Name)

(Title)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

___/___/20___

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

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

PRODUCER Insurance Agent Address City, State, ZIP Code	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED Contractors Name Contractors Address	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: ** VII or better admitted carrier **		
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES**CERTIFICATE NUMBER:** (Certificate No.)**REVISION NUMBER:** See below

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		Policy No.	Date	Date	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS			Policy No.	Date	Date	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$			Policy No.	Date	Date	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A			Policy No. Stop Gap EL Only	Date	Date	WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

(Project Name and Project Number) The City of Yakima, their agents, employees, volunteers, and elected and appointed officials are additional insured under general liability if required by written contract.

10 Days Notice of Cancellation due to Non-payment of Premium. 30 Days Notice for all other reasons.

CERTIFICATE HOLDER**CANCELLATION**

City of Yakima
129 N. 2nd Street
Yakima, WA 98901

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

AUTHORIZED REPRESENTATIVE

Agent Signature

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU PRIMARY AND NONCONTRIBUTORY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against an additional insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is:

1. The minimum amount required by the contract or agreement; or
2. The Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

D. The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek any contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Projects:

In consideration of the premium charged, it is hereby agreed that the General Aggregate Limit set forth in declarations shall apply separately to each of your projects apart from premises owned by or rented to you.

Notwithstanding the above, under no circumstances will the total amount recoverable under the General Aggregate Limit exceed \$5,000,000.00 any one policy period for all projects combined.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:

1. Any payments made under COVERAGE **A** for damages or under COVERAGE **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the “products-completed operations hazard” is provided, any payments for damages because of “bodily injury” or “property damage” included in the “products-completed operations hazard” will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Limits Of Insurance (SECTION **III**) not otherwise modified by this endorsement shall continue to apply as stipulated.