



INFORMATIONAL MEMORANDUM

TO: Finance and Governance Committee
FROM: Hari Ponnekanti, Public Works Director/ City Engineer
BY: Henry Ancira, Facilities Superintendent
CC: Mayor Allan Ekberg
DATE: September 23, 2022
SUBJECT: 303 Facilities Project: City Hall Siding Repairs Project
Project No. 92230302
Contract Award

Issue

Re-Approve a contract with Pacific Exteriors LLC to repair siding on the south side of City Hall and paint new siding to match existing exterior color.

Background

City Hall was built in 1977 and has the original siding. The southern exposed side of the building has several areas where the siding is rotted and exposing the structure to further damage. Replacing the siding in these trouble spots will protect and preserve the building and provide a positive aesthetic.

Analysis

Bids for the City Hall Siding Project were received by three contractors. The bids were checked, tabulated, and no errors were found by the City. The lowest bid was received from Pacific Exteriors LLC.

This item came to the Finance and Governance committee on August 8, 2022 and was approved on the Council Consent Agenda on August 15, 2022. Since then, the City received notification that the contractor made a miscalculation on their original bid, providing an incorrect estimate. The contractor submitted a revised bid, which increased the cost by \$43,357.52. Even with the miscalculation and contract increase, Pacific Exteriors LLC is still the low bidder.

Financial Impact

The lowest bid was from Pacific Exteriors LLC, with a revised cost estimate of \$158,806.86 (including tax). This project has budget allocated in the 2021-2026 CIP but is not enough to cover the cost. The 303 Fund has a sufficient balance to cover the remaining contract cost, including contingency.

	<u>Cost Estimate</u>		<u>Fund Source</u>
Pacific Exteriors Contract	\$158,806.86	Project Budget	\$100,000.00
25% contingency	<u>39,701.72</u>	303 Fund Balance	<u>100,000.00</u>
Total	\$198,508.58		\$200,000.00

Recommendation

Council is being asked to approve the contract with Pacific Exteriors LLC in the amount of \$158,806.86 and consider this item on the Consent Agenda at the October 3, 2022 Regular Meeting.

Attachments: 2021 CIP, Pg 47
Revised Pacific Exteriors LLC Contract

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2023 to 2028

PROJECT: Facility Improvements Project No. Various

DESCRIPTION: Yearly improvements and required maintenance to City facilities that are located throughout the City.

JUSTIFICATION: Maintenance of existing facilities and required updating and improvements.

STATUS: Ongoing.

MAINT. IMPACT: None.

COMMENT: Ongoing project, only one year actuals are shown in first column.

FINANCIAL (in \$000's)	Through		Estimated							
	2021	2022	2023	2024	2025	2026	2027	2028	BEYOND	TOTAL
EXPENSES										
Engineering		4	50		50	50	50	50	50	304
Land (R/W)										0
Construction		156	140	150	150	150	150	150	150	1,196
TOTAL EXPENSES	222	160	190	150	200	200	200	200	200	1,500
FUND SOURCES										
Awarded Grant										0
Proposed Grant										0
Mitigation Actual										0
Mitigation Expected										0
City Oper. Revenue	222	160	190	150	200	200	200	200	200	1,722
TOTAL SOURCES	222	160	190	150	200	200	200	200	200	1,722

Facility Projects scheduled for 2021-2022

TCC Exterior Paint/Stain	\$ 140,000	2021
TCC Retrofit HVAC Chiller	10,000	2021
City Hall Seismic Study	40,000	2021
	<u>\$ 190,000</u>	
City Hall Siding Repairs	100,000	2022
Fire Station 53 Exterior Paint/Stain	50,000	2022
	<u>\$ 150,000</u>	



City of Tukwila

6200 Southcenter Boulevard, Tukwila WA 98188

Contract Number:

CONTRACT FOR SERVICES

This Agreement is entered into by and between the City of Tukwila, Washington, a non-charter optional municipal code city hereinafter referred to as "the City," and Pacific Exteriors LLC, hereinafter referred to as "the Contractor," whose principal office is located at 14724 Bothell Way NE Lake Forest Park WA 98155.

WHEREAS, the City has determined the need to have certain services performed for its citizens but does not have the manpower or expertise to perform such services; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions; now, therefore,

IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

- Scope and Schedule of Services to be Performed by Contractor.** The Contractor shall perform those services described on Exhibit A attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all Federal, State, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. The Contractor shall request and obtain prior written approval from the City if the scope or schedule is to be modified in any way.
- Compensation and Method of Payment.** The City shall pay the Contractor for services rendered according to the rate and method set forth on Exhibit A attached hereto and incorporated herein by this reference. The total amount to be paid shall not exceed \$158,806.86.
- Contractor Budget.** The Contractor shall apply the funds received under this Agreement within the maximum limits set forth in this Agreement. The Contractor shall request prior approval from the City whenever the Contractor desires to amend its budget in any way.
- Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing October 3, 2022, and ending December, 31, 2023, unless sooner terminated under the provisions hereinafter specified.
- Independent Contractor.** Contractor and City agree that Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under 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 the Contractor, or any employee of the Contractor.
- Indemnification.** The Contractor shall defend, indemnify and hold the Public Entity, 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 and damages caused by the sole negligence of the Public Entity.

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 Public Entity, 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 specifically and expressly understood that the indemnification provided herein constitutes the 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 Agreement.

7. **Insurance.** The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors. 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.
- A. **Minimum Scope of Insurance.** Contractor shall obtain insurance of the types and with the limits described below:
1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile liability insurance shall cover all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 2. Commercial General Liability insurance with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit. Commercial General Liability insurance shall be as least at broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, 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 equivalent endorsement. 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.
- B. **Public Entity Full Availability of Contractor Limits.** If the Contractor maintains higher insurance limits than the minimums shown above, the Public Entity 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 Public Entity evidences limits of liability lower than those maintained by the Contractor.
- C. **Other Insurance Provision.** The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
- D. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

- E. **Verification of Coverage.** Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
- F. **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 Public Entity is an additional insured on each and every 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.
- G. **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.
- H. **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.

8. Record Keeping and Reporting.

- A. The Contractor shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City.

9. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by law during the performance of this Agreement.

10. Termination. This Agreement may at any time be terminated by the City giving to the Contractor thirty (30) days written notice of the City's intention to terminate the same. Failure to provide products on schedule may result in contract termination. If the Contractor's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately.

11. Discrimination Prohibited. The Consultant, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.

12. Assignment and Subcontract. The Contractor shall not assign or subcontract any portion of the services contemplated by this Agreement without the written consent of the City.

13. Entire Agreement; Modification. This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

14. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

15. **Notices.** Notices to the City of Tukwila shall be sent to the following address:

City Clerk, City of Tukwila
6200 Southcenter Blvd.
Tukwila, Washington 98188

Notices to the Contractor shall be sent to the address provided by the Contractor upon the signature line below.

16. **Applicable Law; Venue; Attorney's Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

DATED this _____ day of _____, 20__.

CITY OF TUKWILA

CONTRACTOR

Allan Ekberg, Mayor

By: _____

Printed Name and Title: _____

ATTEST/AUTHENTICATED:

Address: _____

City Clerk, Christy O'Flaherty

APPROVED AS TO FORM:

Office of the City Attorney



PACIFIC EXTERIORS LLC
Siding & Painting Specialists

Licensed - Bonded - Insured
Office: 206-877-3087



City of Tukwila
Attn: Henry Ancira
6200 Southcenter Blvd
Tukwila, WA 98188
(206)571-6294

Thank You for allowing Pacific Exteriors LLC to serve you.

You can feel comfortable and confident that we will install your selected products using only the finest grade of materials and installation methods available. The majority of contractors today are focused only on the bottom line: Cheap Materials, Cheap Labor, Cheap Installation = Cheap finished project. This is the reason that there are so many Construction Defect Claims today. We are committed first to **"Quality"**, and then to a **"Fair Price"**. Quality is a commitment to a long term solution, Cheap prices are what created most of the problems today and generally a cheap price is only going to give you a short term fix.

"Our systematic installation methods and field quality control, guarantee you the finest job possible."

Thank You again, for your business.



SIDING - WINDOWS - PAINTING

Admin4@PacificExteriorsLLC.com - www.PacificExteriorsLLC.com

14724 Bothell Way NE Lake Forest Park WA 98155



City of Tukwila
Attn: Henry Ancira
6200 Southcenter Blvd
Tukwila, WA 98188
(206)571-6294

Sales Agreement

Questions? Please call:

Date: 7/22/2022 Quote Expires on: 10/26/2022

We, the undersigned owners of the premises at the above address (hereafter referred to as "customer(s)"), employ Pacific Exteriors LLC. (hereafter referred to as the "Company") to furnish all necessary labor and/or materials to perform the following improvements subject to the terms and conditions below:

Line #	Part #	Description	Price	Qty	Extend
1	Area of Work	<p>-Partial re-side (see photos for areas to be re-sided) with cedar tongue & groove + cedar board & batten -Paint for newly installed siding and trim only -Replace metal coping along top edge of entire course of lower sections with Tongue & Groove (as option)</p> <p>***Pacific Exteriors LLC agrees to satisfy prevailing wage clause and handle all associated paperwork. ***Pacific Exteriors LLC intends to preserve existing gutters so they can be re-used for all straight-line courses. All gutter runs that turn a corner will be too damaged during the removal process to be re-useable and will need to be replaced. The cost to replace these gutters can be discussed with a Pacific Exteriors Project Manager at the time of install. If the old gutters are reused Pacific Exteriors takes no responsibility for their function or appearance</p> <p>***It is solely the mistake of Pacific Exteriors LLC's estimator for having communicated incorrect pricing in the original bid. The total square footage of area to be re-sided was short by approximately 1,000 sqft due to omitting the correct multiplier when calculating the areas above the roofline (only 1 of the 4 highest Southwest facing walls above roofline were included in original estimate)</p>	AREA OF WORK	1	\$0.00
2	Cedar Tongue & Groove Siding	<p>***Pricing is for readily available tight knot cedar tongue & groove with a 3.25" reveal, current siding is a 3" reveal. If custom milling for an exact match is preferred, Pacific</p>	\$128,278.60	1	\$128,278.60

Initialed by: Pacific Exteriors LLC _____ Property Owner _____

Line #	Part #	Description	Price	Qty	Extend
3	Cedar Board & Batten	<p>Exteriors LLC project manager to discuss further with client and quote additional cost.</p> <p>***Portions of existing tongue & groove siding along top edge of walls being re-sided (just beneath roofline) appear to be furred out. If this is the case and the furring strips require any additional re-work or replacement there will be an additional cost based on time and material. Time will be billed at \$97/hr of labor and material will be billed as cost of goods purchased plus 30% markup.</p> <p>-Tear off and dispose of one layer of old sidng. -Install PRE-PRIMED 3/4 x 4 Tight Knot cedar tongue & groove siding w/ 3.25" reveal to the exterior of the building. -Any electrical and light fixtures taken down during installation will be reinstalled. -Any cables or wires taken down during installation will be reinstalled. -Install a 1x2 finish trim to all horizontal soffit areas if needed. -Clean up and haul away all debris. -Run a magnet over the yard to pick up nails.</p> <p>***Match existing ***Regarding the large vents on Southwest facing wall above roofline located near the main back doors of the building, depending on how the existing siding is integrated with the vent system, should deconstruction of the vent system be required to remove old siding, Pacific Exteriors LLC project manager to communicate additional labor cost.</p> <p>-Tear off and dispose of one layer of old siding in areas being sided. -Install PRE-PRIMED 1/2" roughsawn plywood panel with 1x2 primed wood battens spaced every 5.5" to the exterior of the building. -Install metal Z flashing between horizontal seams. -Any electrical and light fixtures taken down during installation of siding will be reinstalled. -Any cables or wires taken down during installation will be reinstalled. -Install a finish trim to all horizontal soffit areas if needed. -Clean up and haul away all debris. -Run a magnet over the yard to pick up nails.</p>	INCLUDED	1	\$0.00
4	Exterior Paint	<p>***Match existing color scheme ***All new siding and trim to be pre-painted before installation to ensure complete</p>	\$15,960.15	1	\$15,960.15

Line #	Part #	Description	Price	Qty	Extend
		<p>coverage and best protection</p> <p>-Spot prime any bare wood and or stained areas with an oil based, stain blocker primer.</p> <p>-Tape and mask off all windows and doors as needed.</p> <p>-While painting use drop clothes to catch any over spray.</p> <p>-Paint siding with two (2) COATS of Sherwin Williams SUPER PAINT with a LIFE TIME manufacturers warranty. Apply paint to siding using high pressure spraying.</p> <p>-Super Paint is mildew resistant.</p> <p>-Paint to all outside corner boards and trim the trim color, front face is painted the trim color, sides go the body color.</p> <p>-Paint all Soffits same color as siding base color, Paint all Fascia and Trim Boards using different color.</p> <p>-If any other doors need to be painted there will be a \$185 charge to paint each door. \$300 for double doors. Exterior of the door will only be painted.</p> <p>-Body color will have a Flat finish, Trim color will have a Satin finish, and the front door will have a Semi Gloss or Gloss finish.</p>			
5	Options	<p>-Option to replace metal coping along top edge of entire lower course of tongue & groove to match current installation is an additional \$6,368.40 + tax</p> <p>***Options to avoid need for replacement of metal coping to be discussed further with Pacific Exteriors LLC project manager</p>	OPTION	1	\$0.00
6	DRAIN SHIELD MAX	<p>-Install DRAIN SHIELD MAX weather barrier</p> <p>-Apply a self adhered flashing tape around all windows.</p>	INCLUDED	1	\$0.00
7	Primed Wood Trim Package	<p>***Match existing trim layout</p> <p>-Install 5/4x4 pre primed white wood window trim to ALL windows.</p> <p>-Install 5/4x4 and 5/4x3 pre primed white wood as corner boards</p> <p>-All window trim and corner boards are to be INLAYED</p>	INCLUDED	1	\$0.00
8	Caulking	<p>-Caulk joints where siding meets the window trim as needed.</p> <p>-Caulk joints where siding meets the corner boards as needed.</p> <p>-Use high quality QUAD MAX Caulking.</p>	INCLUDED	1	\$0.00

Line #	Part #	Description	Price	Qty	Extend
9	Critical Flashing	-Install kick out flashing on gutter sidewall applications as needed. -Install flashing above all window trim and belly bands.	INCLUDED	1	\$0.00
10	Job Site Services	-Dumpster or Debris Removal Service provided if needed. -Honey Bucket provided if needed. -Material Delivery & Pick Up provided if needed.	INCLUDED	1	\$0.00
11	Rotten Sheathing & Insulation	***Unlimited FREE rotten SHEATHING repair*** -Remove rotten sheathing as needed in areas being sided. -Install new OSB Sheathing or plywood to match where old sheathing was. ***Unlimited FREE rotten INSULATION repair*** -Remove and replace insulation in areas where wall sheathing is removed and insulation is water damaged. -Install new fiberglass insulation where old insulation was. ***Should any additional structural repairs be needed, Pacific Exteriors LLC project manager to provide estimate once the extent of damage is known (after project is under way). Estimate to be based on time and materials (\$97/hr + materials). Client will have an opportunity to sign a change order at that point (if needed).	FREE	1	\$0.00

Submitted by representative: _____ Approved by Manager _____

This contract shall not be binding on Pacific Exteriors LLC until approved by an officer of Pacific Exteriors LLC.

Notice to Customer: You are *required* by RCW 19.186.020(7) to disclose whether you intend to *obtain a loan* in order to pay for all or part of the amount due under the contract.

THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE CONTAINED ON TWO PAGES OF THIS FORM.

Buyer acknowledges receipt of copy of this contract.

I accept the terms and conditions of this quotation.

Signed: _____

Name: _____ Date: _____

Signed: _____

Name: _____ Date: _____

Terms: 35% Down Upon Acceptance _____
 35% Due Upon Substantial Delivery of Materials _____
 25% Due Upon Substantial Completion of Siding _____
 5% Due Upon Substantial Completion of Painting (If included) _____

Sub-Total	\$144,238.75
Tax	\$14,568.11
Total	\$158,806.86

It is agreed and understood by and between the parties that this agreement constitutes the entire understanding between the parties, and there are no verbal understandings changing or modifying any of the terms. This agreement may not be changed or its terms modified or varied in any way unless such changes are in writing and signed by both Buyer(s) and Contractor. Buyer(s) hereby acknowledges that Buyer(s) have read the entire agreement including the terms and conditions.

TERMS AND CONDITIONS:

- 1)Checks. All checks shall be made payable to Pacific Exteriors LLC.
- 2)Delay/Unknown Conditions: Contractor's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, strikes, fires, floods, acts of God, material shortages, Buyer's inability to qualify for or obtain financing, delays by local government authorities in issuing or otherwise approving inspections, permitting, or other required authorizations do not constitute abandonment and are not included in calculating time frames for performance by Contractor. Contractor and Buyer(s) have determined that a definite completion date is not of the essence to this Agreement.
- 3)Late Cancellation/Late Payment/Default: If Buyer(s) attempts to cancel or repudiate this Agreement after midnight of the third business day after the date of this Agreement, and Contractor accepts such cancellation, which shall be in Contractor's sole discretion based on economic factors including, but not limited to, the status of Buyer's ordered product, all work under this Agreement will be stopped as promptly as is reasonably possible and Buyer(s) agrees to pay Contractor for any special order material purchased, construction labor expended, and a cancellation fee equal to 15% of this Agreement's purchase price to offset Contractor's incurred administrative labor, and miscellaneous administrative costs. Buyer(s) agrees to pay a late fee of 1.5% per month on all amounts due and owing from Buyer(s) to Contractor accruing from the date due and running to the date the payment is made. If Buyer(s) is in default of this Agreement, Buyer(s) agrees to pay Contractor's attorney's fees or as otherwise allowed by applicable law. Buyer(s) also agrees to pay any other costs or expenses of repossession or collection as allowed by applicable law.
- 4)Contractor's Right to Cancel: In the event that Contractor determines that this Agreement cannot be performed as intended by the parties due, for example, to incorrect pricing, unforeseen structural defects, or pre-existing conditions to Buyer's property, Contractor may cancel this Agreement within thirty (30) days of its execution, notify Buyer(s) of such cancellation in writing, and return all monies paid by Buyer(s).
- 5)No Set-Offs or Retentions: Upon substantial completion of Contractor's work under this Agreement, Buyer(s) shall pay to the contractor, all amounts due under this Agreement without any right of set-off or retention. Substantial completion is defined as the job being materially completed, functional as intended. If after paying all amounts due under this Agreement, Buyer(s) alleges that Contractor's work is defective in any respect, Contractor, without waiving any of its rights, shall cause an inspection of the work and perform any remedial work to the extent the Buyer(s) is entitled to under this Agreement or Contractor's warranty at no cost to Buyer(s).
- 6)Buyer's Representations: Buyer(s) represents and warrants that (a) Buyer(s) owns the premises where the products and/or services are being provided by Contractor; (b) Buyer(s) will provide Contractor with reasonable access to the premises, including access to electrical outlets as may be required by Contractor; (c) Buyer(s) shall be responsible for the preparation, moving, and reinstalling of all wiring, water lines, power lines, plumbing, and the moving of any shrubs, plants, or other items as required by Contractor under this Agreement; and (d) Buyer(s) acknowledge(s) that any excess material not used by Contractor shall remain the property of Contractor and will not be considered part of this Agreement.
- 7)Contractor's Responsibility: Contractor accepts no responsibility for any damage resulting from structural or other defects in the property at which work is performed under this Agreement. Contractor is not responsible for remedying structural defects in Buyer's property. Buyer(s) acknowledges that Contractor's products do not correct or cure structural problems. Contractor shall not be responsible for (a) any damages arising in whole or in part from strikes, fires, accidents, floods, governmental actions, or any other causes beyond control of Contractor; (b) any incidental or consequential damages including, without limitation, lost profits or reduction in value of Buyer's property arising from Contractor's delay in performing under this Agreement or due to Contractor's breach of this Agreement; and (c) unintentional damage to flooring, window treatments, landscaping, driveways, sidewalks, gas lines, electrical wiring, plumbing, telephone installations, collateral or incidental damage to interior walls and personal property, it being understood that Buyer(s) is responsible at Buyer's cost for all preparations, protection, and/or moving of such items prior to Contractor's commencement of work. Contractor intends to use subcontractors on all or a portion of the work.
- 8)Product-Specific Terms: Depending on the product(s) and/or services purchased by Buyer(s), certain product-specific terms may apply. If applicable, these product-specific terms will be contained on the accompanying specification sheet(s). Buyer(s) acknowledges that these product-specific terms are a part of these Additional Terms and Conditions.
- 9)Condensation, Mold and Related Matters: Condensation, which can form on or within walls or other surfaces (such as between windowpanes), results from pre-existing conditions in a home and internal or external temperatures. Condensation is not a product or workmanship defect. Reducing the humidity in a home will often remedy any condensation problems. Buyer(s) agrees to indemnify and hold Contractor and its employees, agents, and subcontractors harmless from any claims as to the identification, detection, abatement, encapsulation, or removal of mold, asbestos, lead-based products, or other hazardous substances inside or outside of the property at which work is performed. Contractor does not provide mold testing or remediation services.
- 10)Miscellaneous: No waiver of any breach of this Agreement shall be construed as a waiver of any prior, concurrent, or subsequent breach hereof. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. In construing this Agreement, the gender and number of words used may be changed to meet the context. Both Buyer(s) and Contractor agree that this entire Agreement constitutes the entire understanding between them, and that there are no verbal understandings changing or modifying any of the terms and conditions of this Agreement. No alteration to or deviation from this Agreement will be valid without the signed, written consent of both Buyer(s) and Contractor. This Agreement shall be governed by and construed in accordance with the laws of the state in which it is performed, except as may be preempted by federal law. Any part of this Agreement contrary to the law of this state shall not invalidate other parts of this Agreement. If a provision of this Agreement is held to be invalid or unenforceable, this Agreement shall continue in full force and effect and shall be construed as if the invalid or unenforceable provision was omitted.
- 11)Assignment: Buyer(s) agrees that Contractor can assign any of Contractor's rights under this Agreement without Buyer's consent and that the person to whom Contractor assigns this Agreement shall be entitled to all of Contractor's rights under this Agreement. Buyer(s) understands that Buyer's rights will not be affected by such assignment. Neither this Agreement nor any rights or benefits hereunder are assignable by Buyer(s) without the prior written consent of Contractor. Any such prohibited assignment shall be null and void.
- 12)Arbitration of Disputes: Contractor and Buyer(s) agree that any and all disputes, claims, or controversies (hereafter referred to as a "Claim") arising under or relating to this Agreement and any related documents, loans, security instruments, accounts, or notes, including by way of example and not as a limitation: (i) the relationships resulting from this Agreement and the transactions arising as a result thereof; (ii) the terms of this Agreement; or (iii) the validity of this Agreement or the validity or enforceability of this arbitration provision may, at the election of either party, be subject to binding arbitration to be determined by one arbitrator, in accordance with and pursuant to the then prevailing Consumer Arbitration Rules of the American Arbitration Association ("AAA), to be held and arbitrated in King County, Washington. Buyer(s) agrees that Buyer(s) will not assert a Claim on behalf of, or as a member of, any group or class. The findings of the arbitrator shall be final and binding on all parties to this Agreement. Each party shall be responsible for its own fees and costs, unless otherwise determined by the arbitrator. This agreement to arbitrate, and any award, finding, or verdict of or from the arbitration, will be specifically enforceable under the prevailing law of any court having jurisdiction. The party asserting a Claim shall file a notice of the demand for arbitration with the other party to this Agreement and with AAA. The demand for arbitration shall be made within a reasonable time after the Claim in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations. Any arbitration proceeding brought under this Agreement, and any award, finding, or verdict of or from such proceeding shall remain confidential between the parties and shall not be made public.
Both Contractor and Buyer(s) are hereby potentially agreeing to choose arbitration, rather than litigation or some other means of dispute resolution, to address any grievances or alleged grievances. The parties believe this may allow for a faster and more cost-effective method of addressing a Claim. By entering into this Agreement and this arbitration provision, both parties may be potentially giving up their constitutional right to have any dispute decided in a court of law before a jury, and instead are potentially accepting the use of arbitration.
- 13)Scope of work: Company and/or its subcontractors will furnish or arrange for all labor, supervision, material, tools and in the Sales Agreement. Company will not be responsible for work which is not included in the description.

Initialed by: Property Owner _____

14)Work Area: Customer will provide the Company with a work area that is safe, free from hazardous materials and clear of obstructions. Pacific Exteriors LLC will not be responsible for damaged landscaping in the work area. Client agrees to stay clear of the work area. Client is fully and solely responsible for any injuries incurred on the job site by anyone other than Pacific Exteriors LLC's employees, sub contractors, and suppliers.

15)Permits and Inspections: Unless otherwise agreed in writing, The CUSTOMER., at Customer's sole expense, will obtain all necessary permits for the work from governmental authorities and procure all inspections and sign-offs required by law. Any cost incurred by the contractor due to assist in obtaining such permits, inspections, delays caused by stop work orders, and sign-offs shall be added to the Total Cash Price.

16)Commencement of Work: Company will not be obligated to commence work at the job site (and if commenced, will not be obligated to continue) until Customer (a) has paid the deposit required of this Sales Agreement (b) has signed this Sales Agreement and all related documents required by Company and (c) has satisfied its obligations under Work Area section above.

17)Changed Conditions: If Customer becomes aware of any fault, defect or condition affecting the work area, which was not previously known by Company, customer will promptly notify Company of the changed condition. If Company should encounter concealed, unknown or latent conditions during the performance of the work which differ materially from those ordinarily encountered, Customer will pay for additional labor, supervision, material supplies, tools and equipment used by Company to complete the work under the changed conditions.

18)Workmanship and Warranty. Company will perform the installation in accordance with the Sales Agreement and the drawings and specifications prepared pursuant thereto, using good workmanship and accepted standards of construction and installation. Pacific Exteriors LLC shall not be liable for leaks or water damage caused by pressure washing. Pacific Exteriors LLC DOES NOT WARRANT CAULKING, customer must refer to the manufactures warranty only. Company warrants its work to be free from defects in workmanship for a period of one (1) Year, from the date of completion. The customer will be responsible for completion of paperwork for all manufacture(s) warranty upon completion of the work, whereupon Customer will have all rights and remedies against the manufacturer(s) as is provided by such warranties. THIS WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY PACIFIC EXTERIORS LLC AND IS IN LIEU OF ALL OTHER WARRANTIES RELATING TO THE WORK DESCRIBED IN THE SALES AGREEMENT WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES AS TO MERCHANTABILITY, OR THAT THE INSTALLATION AND/OR MATERIALS PROVIDED ARE FIT OR SUITABLE FOR A PARTICULAR PURPOSE. No representative of Company is authorized to extend or expand this warranty in any manner.

19) Limitation on Liability. CUSTOMER AGREES THAT FOR ANY BREACH BY PACIFIC EXTERIORS LLC HEREUNDER, NO REMEDY AGAINST PACIFIC EXTERIORS LLC OR ANY OF ITS AFFILIATED CORPORATIONS FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSONS OR PROPERTY OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO CUSTOMER. CUSTOMER AGREES THAT ITS SOLE REMEDY IN THE EVENT OF A BREACH OF PACIFIC EXTERIORS LLC'S CONTRACT AND OR WARRANTY CLAIM WILL BE REPAIR OR REPLACEMENT AND ANY SUCH CLAIM BY CUSTOMER WILL ONLY BE AVAILABLE OR FOR A PERIOD OF (1) ONE YEAR AFTER SUBSTANTIAL COMPLETION. LIABILITY SHALL BE LIMITED TO THE FACE AMOUNT OF CONTRACT. CLIENT HEREBY EXPRESSLY WAIVES AND RELEASES AND SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT THAT IS NOT FILED WITHIN SIX (6) MONTHS FORM THE EXPIRATION OF THIS WARRANTY. Any warranty work performed by Pacific Exteriors LLC does not extend the warranty period.

20)Scaffolding: If scaffolding is used, scaffolding will be attached to the roof. Pacific Exteriors LLC will apply sealant to the areas where the scaffolding is attached. Pacific Exteriors LLC will not replace any roofing. Any roofing replacement will be done at the Customers sole expense.

21) Signs and advertising. Client authorizes Pacific Exteriors LLC to place a job sign on the job site. In addition client authorizes Pacific Exteriors LLC to take photographs and or videos of the job site and of its work. Client recognizes and agrees that photographs and videos taken by Pacific Exteriors LLC or it's agents if any are the exclusive property of Pacific Exteriors LLC without charge and may be used at Pacific Exteriors LLC discretion for any reasonable purpose whatsoever.

22)Incidental damages. The customer understands the risks of damage to the driveway / yard during material and dumpster deliveries and accepts financial responsibility for any damages.

23)For roofing and siding work, if Buyer(s) intends to obtain a loan to pay for all or part of the work, the following applies: **CUSTOMER'S RIGHT TO CANCEL: IF YOU HAVE INDICATED IN THIS AGREEMENT THAT YOU INTEND TO OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE WORK SPECIFIED IN THIS AGREEMENT, YOU HAVE THE RIGHT TO CHANGE YOUR MIND AND CANCEL THIS AGREEMENT WITHIN THREE DAYS OF THE DATE WHEN THE LENDER PROVIDES YOU WITH YOUR TRUTH-IN-LENDING DISCLOSURE STATEMENT OR THE DATE WHEN YOU RECEIVE WRITTEN NOTIFICATION THAT YOUR LOAN WAS DENIED. BE SURE THAT ALL PROMISES MADE BY YOUR CONTRACTOR ARE PUT IN WRITING BEFORE YOU SIGN THIS AGREEMENT.**

NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no PACIFEL917NK, and has posted with the state a bond or deposit of \$12,000 for the purpose of satisfying claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The expiration date of this contractor's registration is 3/27/2023

THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to \$12,000 that you and other customers, suppliers, subcontractors, or taxing authorities may have.

FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

I have received a copy of this disclosure statement. Signed by: Property Owner _____ Date _____







