

ADDITIONAL TERMS AND CONDITIONS

VENDOR AGREES TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS IN ACCORDANCE WITH, BUT NOT LIMITED TO, THE INVITATION FOR BID, REQUEST FOR QUOTATION, SCOPE OF WORK, PUBLISHED POLICIES OF SNO-ISLE LIBRARIES ("LIBRARY DISTRICT") AND THE LAWS OF THE STATE OF WASHINGTON, WHICH ARE HEREBY INCORPORATED BY REFERENCE.

ADVANCE PAYMENTS PROHIBITED – No payments in advance of, or in anticipation of, goods or services performed shall be made by the Library District unless otherwise provided for in the Contract Documents.

ATTORNEYS' FEES – In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney's fees and costs.

CHANGES – No alterations in any of the terms, conditions, delivery price, quality, quantities, or specification of this order will be effective without written consent of the Library District's Contract Manager or designated representative.

CONFIDENTIALITY/ SAFEGUARDING OF INFORMATION and RECORD MAINTENANCE – The Vendor shall not use or disclose any information concerning the Library District, or information which may be classified as confidential, for any purpose not directly connected with the administration of the Contract, except with prior written consent of the Library District, or as may be required by law. All materials received or created by the Library District are considered public records under Washington State Law (RCW 42.56 – Public Records Act). These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid materials. The State of Washington's Public Records Act requires public records be promptly disclosed by the Library District upon request unless RCW 42.56 or another State of Washington statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in RCW 42.56 and RCW 19.108.

The Library District will not assert an exemption from disclosure on the Vendor's behalf. If a Vendor believes that its records are exempt from disclosure, the Vendor is obligated to seek an injunction under RCW 42.56.540. Vendor acknowledges the Library District will have no obligation or liability to Vendor if the records are disclosed.

COPYRIGHT PROVISIONS – Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Library District. The Library District shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Vendor hereby irrevocably assigns all right, title, and interest in Materials, including all Intellectual property rights, to the Library District effective from the moment of creation of such Materials.

LAW – The Contract shall be governed by the law of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Snohomish County.

HANDLING – No charges will be allowed for handling, including but not limited to packing, wrapping bags, containers, or reels, unless otherwise stated herein.

INDEPENDENT CAPACITY OF THE VENDOR/CONSULTANT – The Parties intend that an independent

Vendor relationship will be created by the Contract. The Vendor and his or her employees or agents performing under this Contract are not employees or agents of the Library District. The Vendor will not hold himself/herself out as or claim to be an officer or employee of the Library District or of the Library District by reason hereof, nor will the Vendor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Vendor.

LICENSING, ACCREDITATION AND REGISTRATION – The Vendor shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this contract.

LIENS, CLAIMS AND ENCUMBRANCES – Vendor warrants and represents that all goods and materials ordered herein are free and clear of all liens, claims, or encumbrances of any kind.

LIMITATION OF AUTHORITY – Only the Agent or Agent’s delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of the Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of the Contract is not effective or binding unless made in writing and signed by the Agent.

NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY – The Vendor shall comply fully with all applicable federal, state, and local laws, ordinances, Presidential Executive Orders and regulations that prohibit discrimination to the extent possible. These laws include but are not limited to, RCW Chapter 49.60, Titles VI and VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Restoration Act of 1987. The Vendor shall further comply with any equal opportunity requirements set forth in any federal regulations, statues or rules included or referenced in the Contract Documents.

During the performance of the Contract, neither the Vendor nor any party subcontracting under the authority of the Contract shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

When considering offers from and doing business with Subcontractors and suppliers, The Vendor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

The Vendor shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity, or expression or age. The Vendor’s equal employment opportunity efforts shall include but not be limited to, the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships.

Any violation of the mandatory requirements of the provisions of this section shall be a material breach of contract for which the Vendor may be subject to damages, withholding payment and any other sanctions provided for by the Contract and by applicable law.

OVERPAYMENTS AND ASSERTION OF LIEN – In the event that the Library District establishes overpayments or erroneous payments made to the Vendor under the Contract, the Library District may secure repayment, plus interest, if any, through the filing of a lien against the Vendor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the Library District or by doing both.

PREVAILING WAGES – The Work under the Contract is subject to prevailing wages per RCW 39.12

(Prevailing Wages on Public Works) and RCW 49.28 (Hours of Labor) as amended or supplemented. The Vendor is responsible for compliance by the Vendor and all Subcontractors. Any Offer must be sufficient to pay prevailing wages, and Vendor costs associated with filing of Statement of Intent to Pay Prevailing Wages (Intents) and Affidavit of Wages Paid (Affidavits), including filing of one or multiple Intents and Affidavits as required by the Washington State Department of Labor and Industries (L&I). The Vendor and any Subcontractors shall pay no laborer, worker or mechanic less than the prevailing hourly wage rates in effect at the time of bid opening for worker classifications provided for under Prevailing Wages as issued by the State of Washington for the County in which the work shall be performed.

The Vendor and all Subcontractors must promptly file Statement of Intent to Pay Prevailing Wage Form(s) and Affidavit of Prevailing Wage Form(s) (Intents and Affidavits) as required by L&I under RCW 39.12. The Vendor shall require every Subcontractor to file an Intent. Intents shall be filed online at <https://lni.wa.gov/>.

The Vendor and any Subcontractor shall not pay any laborer, worker or mechanic less than the prevailing hourly wage rates that were in effect at the time of bid opening for the worker classifications that are provided for under Prevailing Wages as issued by the State of Washington for the County in which the work shall be performed.

Vocationally handicapped workers, i.e. those individuals whose earning capacity is impaired by physical or mental deficiency or injury, may be employed at wages lower than the established prevailing wage. The Fair Labor Standards Act requires that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the U.S. Secretary of Labor. These certificates are acceptable to L&I. Sheltered workshops for the handicapped may submit a request to L&I for a special certificate, which would, if approved, entitle them to pay their employees at wages, lower than the established prevailing wage.

In certain situations, an Intent to Pay Prevailing Wages shall be filed with L&I but the Vendor may indicate an exception on the Intent form that exempts the prevailing wage rates for the following:

- .1 Sole owners and their spouse;
- .2 Any partner who owns at least thirty percent (30%) of a partnership;
- .3 The president, vice-president, and treasurer of a corporation if each once owns at least thirty percent (30%) of the corporation; or
- .4 Workers regularly employed on monthly or per diem salary by state or any political subdivision by its laws.

Prevailing Wage rates in effect at the time of bid opening remain in effect for the duration of the Contract, except for annual adjustments required by this agreement for multi-year contracts (where contract is longer than one year) and for building service maintenance (janitorial, waxers, shampooers, and window cleaners).

It is the sole responsibility of the Vendor to assign the appropriate classification and associate wage rates to all laborers, workers or mechanics that perform any work under the Contract, in conformance with the scope of work descriptions of the Industrial Statistician of L&I.

With each invoice, Vendor will attach or write a statement that wages paid were compliant to applicable Prevailing Wage rates, including the Vendor and any Subcontractors.

Upon final completion, the Vendor and all Subcontractors must promptly file the Affidavit of Wages Paid to L&I. The Vendor is also responsible for the prompt filing of the Affidavit by all levels of Subcontractors. The filing may be performed online if the Vendor has initiated the original Intent to Pay Prevailing Wage process online. The receipt of the approved affidavit is required before the Library District can initiate the process with the State of Washington for release of retainage. the retainage amounts. The Library District may withhold payment on any invoice due to the Vendor until the approved affidavit is received.

For jobs above ten thousand dollars (\$10,000), Vendor is required to post for employees' inspection, the Intent form including the list of the labor classifications and wages used on the project.

In the event any dispute arises as to what the prevailing wages are for this Contract, and the dispute cannot be solved by the parties involved, the matter shall be referred to the Director of the Department of Labor and Industries of the State of Washington. In such case, the Director's decision shall be final, conclusive and binding on all parties. If the dispute involves a federal prevailing wage rate, the matter shall be referred to the U.S. Secretary of Labor for a decision. In such case, the Secretary's decision shall be final, conclusive and binding on all parties.

PRIVACY – Personal information as defined in RCW 42.56.590 ("Personal Information" shall not be collected, used, or acquired in connection with the Contract. Any breach of this provision may result in termination of the Contract and the demand for return of all Personal Information. The Vendor agrees to indemnify and hold harmless the Library District for any damages related to the Vendor's unauthorized use of Personal Information.

The Vendor shall not use or disclose Personal Information in any manner that would constitute a violation of federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Vendor agrees to comply with all federal and state laws and regulations as currently enacted or revised regarding data security and electronic data interchange of all Personal Information.

PUBLICITY – The Vendor agrees to submit to the Library District all advertising and publicity matters relating to the Contract wherein the Library District's name is mentioned, or language used from which the connection of the Library District's name may, in the Library District's Judgment, be inferred or implied. The Vendor agrees not to publish or use such advertising and publicity matters without the prior written consent of the Library District.

RECORDS MAINTENANCE – The Vendor shall maintain books, records, documents, data, and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Contract. The Vendor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by the Library District, personnel duly authorized by the Library District, the Office of the State Auditor, and federal and state officials so authorized by law, regulation, or Contract.

If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE – The Vendor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract as appropriate.

SITE SECURITY – While on the Library District's premises, the Vendor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING – The Vendor shall not enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Library District. In no event shall the existence of the subcontract operate to release or reduce the liability of the Vendor to the Library District for any breach in the performance of the Vendor's duties. This clause does not include contracts of employment between the Vendor and personnel assigned to work under the Contract.

Additionally, the Vendor is responsible for ensuring that all terms, conditions, assurances, and certifications set forth in the Contract are carried forward to any subcontracts. Vendor and its

subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES -All payments accrued on account of payroll taxes, unemployment contributions, State of Washington sales or use tax, any other taxes, Insurance or other expenses for the Vendor or its staff shall be the sole responsibility of the Vendor.

TERMINATION –

For Cause – The Library District may terminate this Contract if the Vendor is in material breach of any of the terms of the Contract, and such breach(es) have not been corrected to the Library District's reasonable satisfaction in a timely manner.

For Convenience – The Library District may, at any time, terminate the Contract for the Library District's convenience and without cause.

Notice of Termination – The Library District is not required to provide advance notice to the Vendor of termination. However, the Library District may issue a termination notice with an effective date later than the termination notice. In such instance, the Vendor shall continue to provide goods and services as required by the Contract until the effective date provided in the termination notice.

Actions upon Termination - Upon receipt of the written termination notice for the Library District's convenience and without cause, the Vendor shall cease operations as directed by the Library District in the notice; and take necessary actions, or that the Library District directs, for the preservation of the goods and services. In the case of termination for the Library District's convenience, the Vendor shall be entitled to receive payment for the goods and services properly rendered prior to termination, along with reimbursable expenses then due, but in no event shall the compensation exceed the maximum compensation to be paid under the Contract. The Vendor agrees that this payment shall fully and adequately compensate the Vendor and all subcontractors for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever attributable to the termination of this Contract.

Upon termination for any reason, the Vendor shall provide the Library District with the most current design documents, contract documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. The Library District shall have the same rights to use these materials as though the termination had not occurred.

FORCE MAJEURE – This section only applies in the event either party is unable to perform the obligations of the contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the reasonable control of the party. Such events may include natural or man-made disasters, or actions or decrees by a superior governmental body which prevents performance. Should either party suffer a Force Majeure event and is unable to provide performance, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance. Upon receipt of notice, the party shall be excused from such performance as is affected by the Force Majeure event for the period of such event. If such event affects the delivery date of warranty provisions of the Contract, such date or warranty period shall be automatically extended for a period equal to the duration of the event.

WAIVER – Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by authorized representative of the Library District.

OTHER FEDERAL AND STATE PROVISIONS

Equal Employment Opportunity - All Vendors must comply with federal Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

Civil Rights Act Title VI - The Vendor must comply with the provisions of the Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to, discrimination under any program or activity receiving federal financial assistance.

Americans with Disabilities Act - The Vendor acknowledges that, pursuant to the federal Americans with Disabilities Act (ADA), as amended (42 U.S.C. Sec. 12101 et seq.), programs, services and other activities provided by a public entity to the public, whether directly or through a Subcontractor or subcontractors, must be accessible to individuals with disabilities. The Vendor shall comply with all applicable provisions of the ADA in performing its obligations under the Contract. In particular, if the Vendor is providing services, programs, or activities to Library District employees or members of the public as part of the Contract, the Vendor shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability; and further shall provide the services specified in the Contract in a manner that complies with Title II of the ADA and any and all other applicable federal, state and local disability laws and regulations at all times and at no additional cost to the Library District, including but not limited to the ADA, Section 504 of the Rehabilitation Act of 1973, (29 U.S.C § 701 et seq.); and the Washington Law Against Discrimination, (Wash. Rev. Code Ann. § 49.60).

If the Vendor is designing a project, the final project design shall comply with all applicable laws, building codes and regulatory requirements, including but not limited to the requirements of the ADA and its regulations, standards, and guidelines. In cases where Title II and III of the ADA differ, the design shall comply with the provision that provides the highest degree of access to individuals with disabilities. Additionally, in cases where the 2010 ADA Standards for Accessible Design and building codes and other regulations differ, the design shall comply with the standard that provides the highest degree of access to individuals with disabilities.

Failure to comply with this section 13.13.4 shall be a material breach of, and grounds for the immediate termination of the Contract.

OSHA/WISHA – The Vendor agrees to comply with conditions of the federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 ("WISHA"), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Vendor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Vendor's failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply.

Clean Air Act and Federal Water Pollution Control Act – All Vendors and Subcontractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Library District immediately and to the Regional Office of the Environmental Protection Agency (EPA).

Energy Efficiency – All Vendors and Subcontractors must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat.871).

Federal Amendments – Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy, per OMB Circular A-102 Common Rule, Section 36.

Federal and State Debarment for Prime Vendors and all Subcontractors – By signing this agreement, the Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency or by L&I. The Vendor shall immediately notify the Library District of any suspension or debarment or other action that excludes the Vendor and any Subcontractor level from participation in Federal and/or State contracting. Prior to performance of any work by the Vendor or any Subcontractor under the Contract, The Vendor shall verify all Subcontractors that are intended and/or used by the Vendor for performance of Library District work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal or State Government. The Vendor shall include this same provision in any subcontractor or lower contract agreements. Debarment shall be verified at with both the Federal and State Government at www.sam.gov and <https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx> respectively. The Vendor shall keep documentation of such verification within the Vendor records.

Copeland Anti-Kickback Act – The Vendor and all Subcontractors shall comply with the Copeland “Anti-Kickback” Action (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR, part 3, “Vendors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Vendor or Subcontractor is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which s/he is otherwise entitled. The Vendor shall immediately notify the Library District of any suspected or reported violations.

Byrd Anti-Lobbying Amendment – Vendors executing contracts with the Library District shall sign and submit with its Bid, the Lobbying Certification/SF LLL Disclosure Form. (When applicable) the SF LLL Disclosure section of the form evidencing compliance to the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) should be completed. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 13652. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Library District.

Procurement of Recovered Material – A non-Federal entity that is a state agency or agency of a political subdivision of a state and its Vendors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand dollars (\$10,000) or the value of the quantity acquired during the preceding fiscal year exceeded ten thousand dollars (\$10,000); procuring

solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Trafficking Victims Protection Act of 2000 – Vendors receiving a federal award may not:

- .1 Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- .2 Procure a commercial sex act during the period of time that the award is in effect; OR
- .3 Use forced labor in the performance of the award or subawards under the Contract.