

**SNO-ISLE LIBRARIES
PUBLIC WORKS AGREEMENT
AGREEMENT NO. 2023.01.11 – HVAC MAINTENANCE SERVICES UNIT PRICE CONTRACT**

THIS AGREEMENT is entered into the date last below written between SNO-ISLE INTERCOUNTY RURAL LIBRARY DISTRICT (“Sno-Isle Libraries”) and _____ (“Contractor”); hereafter jointly referred to as “Parties”.

Contractor Name:
Address:
City, State, Zip:
Phone:
WA State UBI No:

PURPOSE

In consideration of the sums to be paid to the Contractor by Sno-Isle Libraries, the Contractor hereby covenants and agrees to furnish all labor, materials, equipment, and supervision as required to deliver HVAC maintenance and repair of mechanical systems on an “as needed” basis to eleven (11) Sno-Isle Libraries’ facilities in accordance with the specifications and plans as contained or referenced within Sno-Isle Libraries ITB Bid No. 2023.01.11 - HVAC Maintenance Services Unit Price Contract.

SCOPE OF WORK

The Contractor will provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the specifications and plans as contained or referenced within Sno-Isle Libraries’ ITB Bid No. 2023.01.11 – HVAC Maintenance Services Unit Price Contract plus Addendum(s) (if issued) and the Contractor’s Bid Proposal dated _____, 2023.

Exhibit A contains the General Terms and Conditions governing work to be performed under this Agreement, the nature of the working relationship between Sno-Isle Libraries and the Contractor, and specific obligation of both parties.

Exhibit B contains Sno-Isle Libraries’ ITB Bid No. 2023.01.11 - HVAC Maintenance Services Unit Price Contract plus Addendums (if issued).

Exhibit C contains the Contractor’s Bid Proposal dated _____, 2023.

PERIOD OF PERFORMANCE

Subject to other Agreement provisions, the period of performance under this Agreement will be effective as of _____, 2023 through _____, 2024 unless sooner terminated or extended as provided herein.

Sno-Isle Libraries reserves the right to extend this agreement for one (1) additional one (1) year term or portions thereof. Such Agreement extensions shall be subject to mutual consent as to duration, modification of terms and price adjustments. The total Agreement duration, with extensions, shall not exceed two (2) years. The Contractor shall respond within fifteen (15) calendar days following receipt of Sno-Isle Libraries' request for an extension.

COMPENSATION AND PAYMENT

Sno-Isle Libraries shall pay an amount not to exceed (NTE) THREE HUNDRED FORTY-NINE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS (\$349,999.99), including applicable Washington State Sales Tax, for the performance of all things necessary or incidental to the performance of work set forth in the Contractor's Bid Proposal dated _____ 2023, which are attached to the end of and are part of this Agreement.

The Contractor's compensation for time and materials rendered shall be based on completed work. The extent of the payment (in whole or in part) is based upon unit prices multiplied by quantities of work actually performed.

Sno-Isle Libraries may, in its sole discretion, withhold amounts from payments otherwise due as offsets or back charges for expenses, damages, liquidated damages or costs for which the Contractor is liable. If Sno-Isle Libraries chooses not to offset or deduct any such expenses, damages, liquidated damages or costs from one or more payments or return of retainage, Sno-Isle Libraries does not waive its claim for such damages and hereby expressly reserves its right to assert a claim against the Contractor for such damages.

A retainage bond equal to five percent (5%) of the total Agreement cost is required for this Agreement, to ensure the timely and faithful completion of the work and to provide a source of funds for liquidated or other damages. The Contractor will declare the option for Sno-Isle Libraries' management of retained percentage in accordance with RCW 60.28.011(4). Retained amounts shall only be released: (a) as required by law; or (b) sixty (60) days after completion of all Agreement work if: (1) there are no claims against the retained funds, (2) Notice of Completion releases are received from the State of Washington Department of Revenue, Department of Labor & Industries, and Employment Security Department, and (3) the Contractor faithfully, timely and completely performed the Agreement.

A performance bond equal to one hundred percent (100%) of the total Agreement cost is also required in accordance with RCW 39.08.010.

The beneficiary for the bonds must be listed as the State of Washington, and Sno-Isle Libraries may be listed as the designee.

Contractor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid.

BILLING PROCEDURES AND PAYMENT

Contractor billings for this Unit Price Contract are to be submitted to Sno-Isle Libraries upon completion of work. An approved *Affidavit of Wages Paid* from the Washington State Department of Labor &

Industries (L&I) must accompany the final invoice(s) for the period. The Affidavit must encompass all payments made (including tax) throughout the Agreement period.

Payment shall be considered timely if made by Sno-Isle Libraries within thirty (30) days after receipt of properly completed invoices with supporting documents, which shall be submitted electronically to Facilities@sno-isle.org. Payment shall be sent to the address designated by the Contractor in accordance with the completed W-9 on file with Sno-Isle Libraries. Sno-Isle Libraries will delay any monthly invoice payment until all required documentation is received.

All Contractor invoices must include the wording, "[*We certify that the prevailing wages have been paid in accordance with the pre-filed statement or statements of intent to pay prevailing wages on file with Sno-Isle Libraries.*](#)"

Contractor agrees to alter the wages it pays its employees on an annual basis in order to recognize and follow the most recently promulgated increases in prevailing wage rates established by the Washington State Department of Labor and Industries each year. The Contractor acknowledges that Sno-Isle Libraries has borne the cost of the increase in wages due employees as appropriate under WAC 296-127 for the duration of the Agreement and included these increases in the original Agreement amount. If the increase in wages due to employees exceed the Agreement amount, the Contractor must notify Sno-Isle Libraries sixty (60) days prior to the anniversary date of the Agreement in order to amend the Agreement amount.

Sno-Isle Libraries may, in its sole discretion, terminate the Agreement or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Agreement.

CHANGES IN WORK/CHANGE ORDERS

Any verbal approvals to changes in work/change order must be approved by the Facilities Department and subsequently documented.

Charges or credits for the work covered by the approved change will be determined by one or more of the following methods (determined by Sno-Isle Libraries):

1. Unit bid prices
2. Lump sum
3. Time and materials

In the event the vendor is directed to proceed with extra work that is still within the scope defined in **Exhibit B**, on a time and material basis, an itemized proposal shall be submitted including materials, any rental costs, and/or any other backup as requested by Sno-Isle Libraries.

Additional travel outside the projected schedule, to include return travel fees for unfinished work, without approved change order or verbal consent will not be paid.

NTE amounts will be used on any project proposal/bid and is to cover total cost.

WORK ORDERING PROCEDURE

Major scheduled projects (not service work):

Individual purchase orders will be issued for scheduled projects. There is no minimum order for services.

The "HVAC Repair Services Work Order - Attachment 8.7" from the Sno-Isle Libraries' ITB Bid No. 2023.01.11– HVAC Maintenance Services Unit Price Contract plus Addendum(s) (if issued) must be completed and included with each project estimate for scheduled projects so that the documentation can be attached to the purchase order for each project.

The Facilities Department designee will:

1. Notify the awarded Contractor(s) in writing or verbally, of a planned project(s).
2. Set a pre-quote coordination timeframe (with up to 72 hours' notice) for a site visit for scheduled projects. This will allow vendors the opportunity to examine the conditions and acquire/observe in-depth knowledge on the scope of work so that a quotation can be given. During the site visit, the following will be established:
 - a. A scope of work will be established, including who is responsible (Sno-Isle Libraries or the Contractor) for project specific requirements.
 - b. A due date and time for the quotation (giving up to 72 hours).
 - c. A timeline with a start and completion date.
 - d. Answer any project specific questions.
 - e. Verification of pre-existing conditions in and damages to the grounds and/or building(s).
 - f. If available, the designee will furnish plans showing locations of work.

The Contractor will:

1. Be responsible to take all of their own measurements.
2. Be responsible for obtaining all required trade permits as determined by local code.
3. If permits are required, inspection will be scheduled by the Contractor.
4. Be responsible to close permit upon completion of project.
5. For a given project, the quote submitted will be a not to exceed (NTE) estimate. Pricing for units of labor, materials, or equipment, which are not specifically listed will be subject to Sno-Isle Libraries' approval. The total of all lines, including additional negotiated items, will be added together to establish an estimated total project cost.
6. Include these items on the invoice:
 - a. Purchase Order number
 - b. Invoice number
 - c. Prevailing Wage Statement
 - d. Appropriate units of labor, materials, and equipment based on the NTE quote on the Work Order form
7. Call before you dig: Call 811 or access callbeforeyoudig.org for below grade work, and as required.
8. If awarded, confine its apparatus, storage of materials and operations of workmen to the limits indicated by Sno-Isle Libraries.

9. If awarded, the Contractor will be required by Sno-Isle Libraries policy to report to the person in charge and sign in as a visitor to that building each day.
10. Coordinate with the Facilities Department before starting the project.
11. Immediately report to the Facilities Department any error, inconsistency or omission which they discover.
12. If awarded, be responsible to remove all trash and debris while maintaining a clean work area throughout the duration of work. Supplies and tools will be stored in a safe manner. At the completion of the work, and before final payment is made, Contractor will remove all tools and surplus materials from the building. In case of dispute, Sno-Isle Libraries may remove the rubbish and/or repair property and charge such costs to the Contractor.

INSPECTION/CORRECTION OF WORK

All work, materials, processes of manufacture, and all methods of construction will be subject to the inspection of Sno-Isle Libraries at any time and location. Sno-Isle Libraries will be the sole judge of the quality and suitability. Should any fail to meet the standard, they will be made good, replaced/covered, by the Contractor at their expense. Rejected material will be removed immediately from the site. Sno-Isle Libraries may find it is undesirable to replace any defective or damaged materials, or to reconstruct or correct any portion of the work. As such, the compensation to be paid to the Contractor shall be reduced by such amount that Sno-Isle Libraries finds equitable.

The Contractor will give Sno-Isle Libraries timely notice of its readiness for observations to be tested, inspected or approved by laws governing the work completed. If the inspection is by another authority, the Contractor will notify Sno-Isle Libraries of the date fixed for such inspection and shall use the required Certificate of Inspection.

Sno-Isle Libraries may order re-examination of completed work and the Contractor must uncover the work at their expense. If it is found not to be in accordance with the Agreement, the Contractor will pay all costs to correct the work, to the satisfaction of Sno-Isle Libraries. If another Contractor employed by Sno-Isle Libraries caused the defect in the work, Sno-Isle Libraries shall pay such cost and recover the charges from the other Contractor.

PROJECT MANAGEMENT

The Project Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Agreement.

Contractor Project Manager	Sno-Isle Libraries Contract Manager
Name	Rose Hong
Company	Sno-Isle Libraries Service Center
Address	7312 35 th Ave NE
City, State, Zip Code	Marysville, WA 98271
Phone:	Phone: (360) 913-8879
Email address:	Email address: RHong@sno-isle.org

For questions pertaining to this Agreement, please contact a Procurement Specialist at Purchasing@sno-isle.org.

BONDS AND INSURANCE

The Contractor shall provide performance and payment bonds as required by the Agreement Documents in the amount of 100% of the Agreement cost. The Contractor shall provide a retainage bond as required by the Agreement Documents in the amount of five percent (5%) of the Agreement cost. The Contractor shall provide, as applicable, insurance coverage as set forth in the General Terms and Conditions (**Exhibit A**). The intent of the required insurance is to protect Sno-Isle Libraries should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Agreement.

The Contractor shall submit to Sno-Isle Libraries within ten (10) days of the Agreement effective date, a certificate of insurance which outlines the coverage and limits defined in the *Insurance Coverage* section contained in the General Terms and Conditions (**Exhibit A**). The Contractor shall submit renewal certificates as appropriate during the term of the Agreement.

Failure to maintain such insurance shall be a material breach of the Agreement. Sno-Isle Libraries shall be entitled to damages for such a breach that include, but are not limited to, any loss (including, but not limited to, third party litigation expenses and professional fees) suffered by Sno-Isle Libraries if Sno-Isle Libraries is determined to be solely or concurrently negligent, and if Sno-Isle Libraries suffers any loss or must pay or defend against any such claim, suit, demand or damage as a result of such breach.

The Contractor waives any right of contribution against Sno-Isle Libraries. It is agreed and mutually negotiated that in any and all claims against Sno-Isle Libraries, its agents or employees, the Contractor, a subcontractor, anyone directly or indirectly employees by the Contractor or subcontractor, or anyone for whose acts any of them may be liable, the defense and indemnification obligations hereunder shall not be limited in any way by any limitation on the amount of damages, compensation, or benefits payable by or for the Contractor of any Subcontractor under industrial worker's compensation acts, disability benefit acts, or other employees' benefit acts.

The Contractor's and Sno-Isle Libraries' initials hereto indicate specific waiver of the Contractor's industrial insurance immunity in order to fulfill this indemnity. Solely for the purpose of the indemnification and defense as provided in this Agreement, the Contractor specifically waives any immunity under the State of Industrial Insurance Law, Title 51 RCW. The Contractor expressly acknowledges that this waiver of immunity under Title 51 RCW was the subject of mutual negotiation and was specifically entered into pursuant to the provisions of RCW 4.24.115.

Contractor (initial here)

Sno-Isle Libraries (initial here)

The Contractor agrees to repair and replace all property of Sno-Isle Libraries and all property of other damaged by it, its employees, subcontractors, suppliers, and agents.

ASSURANCES

Sno-Isle Libraries and the Contractor agree that all activity pursuant to this Agreement will be in accordance with all the applicable current deferral, state and local laws, rules and regulations. Without limiting the foregoing, the Contractor shall: (1) pay prevailing wages and comply with the requirements set forth in Chapter 39.12 RCW; (2) provide and submit all information as required by RCW 39.04.370.

ORDER OF PRECEDENCE

Each of the exhibits and documents listed below is by this reference hereby incorporated into this Agreement. In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Terms and Conditions as contained in this Agreement instrument
- **Exhibit A-** General Terms and Conditions
- **Exhibit B-** Sno-Isle Libraries' ITB Bid No. 2023.01.11 – HVAC Maintenance Services Unit Price Contract plus Addendum(s) (if issued)
- **Exhibit C-** Contractor's Bid Proposal dated _____, 2023
- Permits, if applicable
- 100% Payment/Performance Bond and 5% Retainage Bond
- Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This Agreement including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This Agreement shall be subject to the written approval of Sno-Isle Libraries' authorized representative and shall not be binding until so approved. The Agreement may be altered, amended, or waived only by a written amendment executed by both parties.

THIS AGREEMENT is executed by the persons signing below who warrant that they have the authority to execute the Agreement.

Contractor

Sno-Isle Libraries

Signature

Date

Signature

Date

Lois Langer Thompson, Executive Director

SAMPLE

GENERAL TERMS AND CONDITIONS

CONTRACTOR AGREES TO THE FOLLOWING TERMS AND CONDITIONS IN ACCORDANCE WITH, BUT NOT LIMITED TO, THE INVITATION TO BID, REQUEST FOR QUOTATION, SCOPE OF WORK, PUBLISHED POLICIES OF SNO-ISLE LIBRARIES 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 Sno-Isle Libraries.

AMENDMENTS – This Agreement may be amended by mutual consent of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35 – The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT – Neither this Agreement, nor shall any claim arising under this Agreement, be transferred, or assigned by the Contractor without prior written consent of Sno-Isle Libraries.

ATTORNEYS' FEES – In the event of litigation or other action brought to enforce Agreement 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 Sno-Isle Libraries' Agreement Manager or designated representative.

CONFIDENTIALITY/ SAFEGUARDING OF INFORMATION – The Contractor shall not use or disclose any information concerning Sno-Isle Libraries, or information which may be classified as confidential, for any purpose not directly connected with the administration of this Agreement, except with prior written consent of Sno-Isle Libraries, or as may be required by law. The Contractor understands that Sno-Isle Libraries, as a public agency, is subject to the Public Records Act. Any disclosure by Sno-Isle Libraries of Confidential Information in response to a valid order by a government agency, or otherwise required by applicable law, shall not be considered a breach of this Agreement.

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 Sno-Isle Libraries. Sno-Isle Libraries 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, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all Intellectual property rights, to Sno-Isle Libraries effective from the moment of creation of such Materials.

DEBARMENT, SUSPENSION, INELIGIBILITY AND EXCLUSIONS – The Contractor is required to certify that neither they or their principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any transactions by any Federal department or agency.

DISPUTES – Except as otherwise provided in this Agreement, when a dispute arises between the Parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing.

1. The request for a dispute hearing must:
 - a) Be in writing;
 - b) State the disputed issue(s);
 - c) State the relative positions of the Parties;
 - d) State the Contractor's name, address, and Agreement number; and
 - e) Be mailed to the other party's (respondent's) contract manager within 3 business days after the Parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to the requester within five (5) business days.
3. The Parties agree that this dispute process shall precede any action in a Judicial or quasi-Judicial tribunal.

Nothing in this Agreement shall be construed to limit the Parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above. Any dispute In connection with this public works Agreement which the Parties cannot resolve among themselves shall be referred to the Director of Washington State Labor and Industries for arbitration, and the Director's decision shall be final, conclusive, and binding on all Parties to the dispute.

FORCE MAJEURE – Notwithstanding any other provisions of this Agreement, in the event that the performance of any obligation under this Agreement by a Party is prevented due to acts of God, exchange controls, export or import controls, or any other government restriction or regulation, wars, hostilities, blockades, civil disturbances, revolutions, strikes, terrorist attacks, lockouts, blackouts, or any other cause beyond the reasonable control of a Party, such Party shall not be responsible to other Parties for failure or delay in performance of its obligations under this Agreement. Each Party shall promptly notify the other Party of such force majeure condition. The terms of this clause shall not exempt, but merely suspend, any Party from its duty to perform the obligations under this Agreement until as soon as practicable after the force majeure condition ceases to exist.

GOVERNING LAW – This Agreement shall be construed and interpreted in accordance with the laws 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 CONTRACTOR – The Parties intend that an independent Contractor relationship will be created by this Agreement. The Contractor and his or her employees or agents performing under this Agreement are not employees or agents of Sno-Isle Libraries. The Contractor will not hold himself/herself out as or claim to be an officer or employee of Sno-Isle Libraries or of Sno-Isle Libraries by reason hereof, nor will the Contractor 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 Contractor.

INDUSTRIAL INSURANCE COVERAGE – The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Sno-Isle Libraries may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. Sno-Isle Libraries may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Sno-Isle Libraries under this Agreement and transmit the deducted amount to the Department of Labor and Industries (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor. The requirements for the insurance coverage are:

Commercial General Liability Insurance

Contractor shall procure and keep in force during the term of this Agreement, Commercial General Liability (CGL) insurance on an occurrence basis in an amount no less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to premise/operations (including off-site operations), blanket contractual liability and broad form property damage. Prior to the Contractor performing any work under Agreement, Contractor shall provide Sno-Isle Libraries with a Certificate of Insurance evidencing the insurance required and by endorsement to the Contractor's liability policy, naming Sno-Libraries, its officer, employees, and agents as Additional Insureds.

Workers Compensation Coverage

All Contractors and subcontractors are required to pay industrial insurance for all employees involved in the performance of the work described herein. Failure to pay will be a breach and justify a demand on the Performance Bond. This obligation survives final acceptance.

INSURANCE COVERAGE – In addition to the industrial insurance requirements above, the following insurance requirements are required for Contractors and any subcontractors if funding for project includes any Washington State or Federal grant funds.

Fidelity Insurance

Every officer, director, employee, or agent who is authorized to act on the behalf of the Contractor for the purpose of receiving or depositing funds into accounts or issuing financial documents, checks or other instruments of payment for project costs shall be insured to provide protection against loss pursuant to this Agreement. The amount shall be \$2,000,000 or the highest planned reimbursement for the project period, whichever is lower. Fidelity insurance secured should name the State or Federal entity contributing funds to the project as the beneficiary.

Contractors or subcontractor(s) that receive \$10,000 or more per year of State or Federal project funds shall secure fidelity insurance as listed above. Fidelity insurance secured by the Contractor or subcontractor(s) pursuant to this paragraph shall name the Library District and the Library District's fiscal agent as beneficiary.

Automobile Insurance

In the event the project is funded by State or Federal funds and involves the use of vehicles owned or operated by the Contractor or subcontractor(s), automobile insurance is required for the minimum amount of \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

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

LIENS, CLAIMS AND ENCUMBRANCES – Contractor 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 this Agreement. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Agreement is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS – In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the Contractor may be declared ineligible for further Agreements with Sno-Isle Libraries. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION & AFFIRMATIVE ACTION – During the performance of this Agreement, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. The Contractor agrees not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap with regard to, but not limited to, the following employment upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-offs or termination, rates of pay or other forms of compensation, selection for training or rendition of services. It is further understood that any Contractor who is in violation of this clause or an applicable Affirmative Action Program shall be barred forthwith from receiving awards of any purchase order from Sno-Isle Libraries unless a satisfactory showing is made that discriminatory practices or noncompliance with applicable Affirmative Action Programs have terminated and that a recurrence of such acts is unlikely.

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

PREVAILING WAGES – Pursuant to RCW Chapter 39.12 and WAC 296-127, the Contractor shall pay not less than the prevailing rate determined by the State of Washington. The Contractor shall pay the wage rates in effect at the date of Agreement execution. See Snohomish and Island County rates at <https://fortress.wa.gov/Inl/wagelookup/prvwagelookup.aspx>. A copy of such prevailing rates and per diem wages shall be posted by the Contractor at the work site or local office. Sno-Isle Libraries will provide a hardcopy of applicable prevailing rate of wages upon request. The Director of the Washington State Department of Labor and Industries shall arbitrate all disputes of the prevailing rate of wage.

PRIVACY – Personal information shall not be collected, used, or acquired in connection with this Agreement. Any breach of this provision may result in termination of the Agreement and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless Sno-Isle Libraries for any damages related to the Contractor's unauthorized use of personal information.

PROHIBITION ON LOBBYING – As required by Section 1352, Title 31 of United States Code, if the Contractor is a recipient of federal grant funding, you may not use these funds to influence or attempt to influence an officer, employee of a federal agency, a member of Congress, an officer/employee of Congress. Any such use of funds must be disclosed to Sno-Isle Libraries immediately.

PUBLICITY – The Contractor agrees to submit to Sno-Isle Libraries all advertising and publicity matters relating to this Agreement wherein Sno-Isle Libraries' name is mentioned, or language used from which the connection of Sno-Isle Libraries' name may, in Sno-Isle Libraries' Judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of Sno-Isle Libraries.

RECORDS MAINTENANCE – The Contractor 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 this Agreement. The Contractor 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 Agreement, shall be subject at all reasonable times to inspection, review or audit by Sno-Isle Libraries, personnel duly authorized by Sno-Isle Libraries, the Office of the State Auditor, and federal and state officials so authorized by law, regulation, or Agreement.

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 Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Agreement as appropriate.

RISK OF LOSS – Regardless of FOB point, the Contractor agrees to bear all risks of loss, injury or destruction of goods and materials ordered herein which occur prior to delivery. Such loss, injury or destruction shall not release the Contractor from any obligation hereunder.

SAFEGUARDING OF INFORMATION – The Contractor shall not use or disclose Personal Information in any manner that would constitute a violation of deferral 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 Contractor 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.

SEVERABILITY – The provisions of this Agreement are intended to be severable. If any term or provision is illegal or Invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

SITE SECURITY – While on Sno-Isle Libraries premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING –The Contractor shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of Sno-Isle Libraries. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to Sno-Isle Libraries for any breach in the performance of the Contractor's duties. This clause does not include Agreements of employment between the Contractor and personnel assigned to work under this Agreement.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances, and certifications set forth in this Agreement are carried forward to any subcontracts. Contractor 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 Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE –In the event Sno-Isle Libraries determines the Contractor has failed to comply with the conditions of this Agreement in a timely manner, Sno-Isle Libraries has the right to suspend or terminate this Agreement. Before suspending or terminating the Agreement, Sno-Isle Libraries shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Agreement may be terminated or suspended. In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Agreement and the replacement or cover

Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of the competitive Bidding, mailing, advertising, and staff time. Sno-Isle Libraries reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by Sno-Isle Libraries to terminate the Agreement. A termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (1) was not In default; or (2) failure to perform was outside of his or her control, fault, or negligence. The rights and remedies of Sno-Isle Libraries provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law. In the event the Contractor determine that Sno-Isle Libraries has failed to comply with the condition of this Agreement In a timely manner, the Contractor has the right to suspend or terminate this Agreement. Before suspending or terminating the Agreement, The Contractor shall notify Sno- Isle Libraries In writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Agreement may be terminated or suspended.

TERMINATION FOR CONVENIENCE – Except as otherwise provided in this Agreement, Sno-Isle Libraries or the Contractor may, by thirty (30) calendar days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part if this Agreement is so terminated, Sno-Isle Libraries shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES – Upon termination of this Agreement, Sno-Isle Libraries, in addition to any other rights provided in this Agreement, may require the Contractor to deliver to Sno-Isle Libraries any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

Sno-Isle Libraries shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by Sno-Isle Libraries, and the amount agreed upon by the Contractor and Sno-Isle Libraries for (i) completed work and services for which no separate price is slated, (ii) partially completed work and services, (iii) other property or services which are accepted by Sno-Isle Libraries, and (iv) the protection and preservation of property, unless the termination is for default, in which case if the Parties cannot agree on the amount, such determination shall be a dispute within the meaning of the "Disputes" clause of this Agreement. Sno-Isle Libraries may withhold from any amounts due the Contractor such sum as determined to be necessary to protect Sno-Isle Libraries against potential loss or liability.

The rights and remedies of Sno-Isle Libraries provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

After receipt of a notice of termination, the Contractor shall:

1. Stop work under the Agreement on the date, and to the extent specified, in the notice;

2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement that is not terminated;
3. Assign to Sno-Isle Libraries, in the manner, at the time, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case Sno-Isle Libraries has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agent to the extent Agent may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to Sno-Isle Libraries and deliver in the manner, at the times, any property which, if the Agreement had been completed, would have been required to be furnished to Sno-Isle Libraries;
6. Complete performance of such part of the work as shall not have been terminated; and
7. Take such action as may be necessary for the protection and preservation of the property related to this Agreement which is in the possession of the Contractor and in which Sno-Isle Libraries has or may acquire an interest.

TRAFFICKING IN PERSONS – As set forth in 2 C.F.R. Part 175, if a Contractor or Vendor is a recipient of federal grant funding, you may not i) Engage in severe forms of trafficking in persons during the period of time that the project is in effect; ii) Procure a commercial sex act during the period of time that the project is in effect; or iii) Use forced labor in the performance for the project.

TREATMENT OF ASSETS

- A. Title to all property furnished by Sno-Isle Libraries shall remain in Sno-Isle Libraries. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Agreement, shall pass to and vests in Sno-Isle Libraries upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Agreement, shall pass to and best in Sno-Isle Libraries upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by Sno-Isle Libraries in whole or in part, whichever first occurs.
- B. Any property of Sno-Isle Libraries furnished to the Contractor shall, unless otherwise provided herein or approved by Sno-Isle Libraries, be used only for the performance of this Agreement.
- C. The Contractor shall be responsible for any loss or damage to property of Sno-Isle Libraries which results from the negligence of the Contractor, or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management policies.

- D. If any Sno-Isle Libraries property is lost, destroyed, or damaged, the Contractor shall immediately notify Sno-Isle Libraries and shall take all reasonable steps to protect the property from further damage.
- E. The Contractor shall surrender to Sno-Isle Libraries all property of Sno-Isle Libraries prior to settlement upon completion, termination, or cancellation of this Agreement.
- F. All reference to the Contractor under this clause shall also include Contractor's employees, agents, or subcontractors.

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 an authorized representative of Sno-Isle Libraries'.

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