

## Shoreline School District #412

### Terms and Conditions

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***NOTE! The Terms And Conditions and other information of individual contracts may be in conjunction with or may supersede the terms and conditions below. Where terms and conditions are issued separately for specific contracts, those terms and conditions that differ shall prevail.***

~ Revised May 2014 ~

**APPLICABLE LAW:** Where applicable, the laws, rules and policies of the U.S. Federal Government, the State of Washington, the cities of Shoreline and Lake Forest Park, Washington and the Shoreline School District shall govern this agreement. The venue for disputes shall lie in King County, Washington.

**ASSIGNMENT:** Neither party may assign this agreement, in whole or in part, without the prior written consent of the other party, and such consent will not be unreasonable withheld. No such consent will be required for assignment to an entity owned by or under the common control with assignor. In any event, the assigning party will remain fully responsible for compliance with all of the terms of this agreement.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION ON INELIGIBILITY:** The Contractor certifies that neither it nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions by any Federal and/or department or agency. The Contractor certifies that it shall not knowingly enter into an agreement with a subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in transactions by any federal department or agency, for the performance of this agreement. The Contractor shall provide immediate written notice to the District, if at any time, the Contractor or any subcontractor is debarred, suspended, declared ineligible, or voluntarily excluded.

**COMPLIANCE:** Vendor agrees that goods delivered shall comply with all ordinances, laws and lawful regulations applicable to the purchase, manufacture, processing and delivery of the merchandise and shall obtain and pay for all required licenses and permits.

**COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT:** The Contractor shall be responsible for compliance with the Americans with Disabilities Act of 1990, as now in effect or hereafter amended, and all rules and regulations issued thereunder (herein collectively referred to as the "ADA") and compliance with the ADA Accessibility Guidelines when carrying out the duties of this agreement. The Contractor shall indemnify the District against any and all complaints and defend the District from all actions arising from the Contractor's negligence of compliance during the term of this agreement.

**CONFIDENTIALITY OF INFORMATION:** Contractor may be exposed to confidential information. Information declared confidential by the District shall not be disclosed unless authorized in writing by the District. It is agreed that this obligation of confidentiality shall survive the termination of this agreement.

**CONTRACT:** This agreement and any other applicable Shoreline School District contract, Professional or Personal Services Agreement, pursuant to this Purchase Order constitutes the entire agreement between the District and the Vendor and supersedes any prior oral or written statements or agreements. This form, when properly signed and bearing a Purchase Order Number, is the only form, which will be recognized by the

Purchaser as authority for charging merchandise to its account. The Vendor shall not make any changes, alterations or variations for the term of the Purchase Order without written consent. No terms stated by the Vendor in accepting or acknowledging this order shall be binding upon the Purchaser unless accepted in writing by the Purchaser. The Vendor shall not assign this order without the Purchaser's prior consent. No waiver by the Purchaser of a breach of any provision of this order shall constitute as waiver of any other breach or of any other provision. When a Bid or Contract Number is cited on the face of this form, the terms, conditions and specifications governing that Bid or Contract shall be governed be and construed according to the policies of the District and laws of the State of Washington. Any claim or suit concerning this Contract shall be in Superior Court for King County. In the event that action is removed to U.S. District Court, venue shall be in the Western District of Washington.

**CRIMES AGAINST CHILDREN:** The Contractor shall prohibit any employee of the contractor, including subcontractors, from working at a public school who has contact with children at said school during the course of his or her employment and who has plead guilty to or been convicted of any felony crime involving the physical neglect of a child under RCW 9A.42, the physical injury or death of a child under RCW 9A.32 or 9A.367 (except motor vehicle violations under RCW 46.61), sexual exploitation of a minor under RCW 9.68, several offenses under RCW 9A.44 where a minor is the victim, promoting prostitution of a minor under RCW 9A.88, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Any failure to comply with this section shall be grounds for the School District to immediately terminate the contract.

**DEFAULT:** Purchaser may, by written notice of default to the Vendor, terminate this order of any part thereof is the Vendor (1) fails to deliver the articles or perform the services in accordance with the delivery schedule specifies herein, or any extension thereof; or (2) fails to comply with any of the provisions of this order and does not cure such failure within a period of ten (10) days after receipt of notice from Purchaser specifying such failure. In the event of termination due to default and failure to cure, Purchaser may purchase similar articles or services elsewhere. Vendor may be liable to Purchaser for any excess cost to the Purchaser, provided however, that the Vendor shall not be liable for such excess costs when the delay of the Vendor in making deliveries is to causes beyond its control and without the fault or negligence of the Vendor. Such causes may include, not are and not restricted to items noted under the FORCE MAJEURE heading below. No cause shall constitute a basis for excusable delay unless the Vendor has notified the Purchasing Manager in writing of the existence of such cause within ten (10) days of the event.

**DEFINITIONS:** The term "Purchaser" and "District" means Shoreline School District and the term "Vendor" mean the person, firm or corporation from whom the merchandise or work has been ordered.

**DURATION:** This agreement shall commence and terminate as stated herein except Section V which shall continue to bind the parties, their heirs and successors.

**FORCE MAJEURE:** The District is entitled to cancel, reschedule or temporarily suspend this contract by force majeure, including but not limited to acts of God, schools closures due to acts of nature, power outages or other emergencies, fires, industrial, civil, public or military authority or disturbances. If the Contractor is unable to perform due to force majeure, the District may exercise any remedy otherwise provided for in this contract, including termination for default.

**HAZARDOUS WASTE:** The Contractor will not cause nor permit any activities on the District's property, which directly or indirectly could result in the District's property becoming contaminated with hazardous or toxic waste or substances. For purposes of this agreement, the term "hazardous or toxic waste or substances" means any substance or material defined or designated as hazardous or toxic wastes,

hazardous or toxic material, a hazardous, toxic or radioactive substance or other similar term by any applicable federal, state or local statute, regulation or ordinance now or hereafter in effect.

**ID BADGE:** Contractor will be required to wear an ID badge when on District property for compliance with the District's safety policy and security concerns. Badges must be prominently displayed and attached to outer, upper garments at all times while on District property. Contractor shall contact building's main office and check in on each visit. Temporary ID badges are available at each main office.

**INDEMNIFICATION:** The Contractor and District shall indemnify, hold harmless, and defend each other, its elected and appointed officials, employees, agents and staff from any and all claims, liabilities, damages, expenses, rights of action, directly or indirectly arising as a result of error, omission, or negligent act of the Contractor, subcontractors, or anyone directly or indirectly employed by them in the performance of this agreement.

**INDEPENDENT CONTRACTOR STATUS:** It is specifically understood that Contractor, its employees, and agents, are contracting with the District as an independent contractor and act in an independent capacity and are not officers, employees, or agents of the District. The District shall not be responsible for fringe benefits, withholding, paying of any taxes on behalf of Contractor or Contractor employees or agents, or remuneration above the amount stipulated in this agreement. This agreement does not preclude the Contractor from undertaking work or assignments from other school district, agencies or individuals.

**INSURANCE – CONTRACTOR (CONSTRUCTION):** The Contractor shall procure and maintain for the duration of this 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, its agents, representatives, employees or subcontractors. This insurance is to be provided at the cost of the Contractor and be with a company or companies admitted to do business in the State of Washington, possessing an A.M. Best Rating of A + IX or better, and reasonably acceptable to the School District. The Contractor shall provide a Certificate of Insurance evidencing:

- Commercial General Liability insurance written on an occurrence basis with limits no less than \$2,000,000 combined single limit per occurrence for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability.

- Automobile Liability insurance with limits no less than \$2,000,000 combined single limit per accident for bodily injury and property damage; including coverage for owned, non-owned and hired automobiles.

- True Umbrella Excess Liability insurance written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence, in excess of underlying policies outlined in 6.1.2 and 6.1.3 above.

- The District shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Contractor and **a copy of the endorsement naming the District as additional insured shall be attached to the Certificate of Insurance.** The district reserves the right to receive a certified copy of all required insurance policies. The District shall be given thirty (30) days prior written notice of any cancellation, suspension or material change in coverage.

- In addition, the Contractor shall purchase and maintain insurance or self-insure for claims under workers' compensation (industrial insurance), disability benefit and other similar employee benefit acts in the State statutory amount.

- The School District's specification or approval of the insurance in this Agreement or of its amount shall not relieve or decrease the liability of the Contractor under the Contract Documents or otherwise. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. The Contractor may, at its expense, purchase larger coverage amounts or additional insurance.

**INSURANCE – CONSULTANT (PROFESSIONAL SERVICES):** The Consultant shall procure, at its own cost, and shall 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 work hereunder by the Consultant, its agents, representatives, employees or subcontractors. The Consultant shall not commence performance of Services under this Agreement until all required insurance has been obtained and a certificate of insurance reflecting evidence of the insurance required below is submitted to the District for approval. In addition, the District shall be named as an additional insured on the Commercial General Liability Insurance policy by endorsement, as respects work performed or on behalf of the Consultant and a copy of the endorsement naming the District as additional insured shall be attached to the Certificate of Insurance. The district reserves the right to receive a certified copy of all required insurance policies. The District shall be given thirty (30) days prior written notice of any cancellation, suspension or material change in coverage. This insurance is to be primary and non-contributing. All insurance is to be provided by insurance companies with an A.M. Best's rating of not less than A- VII. The insurance requirement shall not reduce the obligations of the indemnification agreement set out in paragraph 7. Lapse of coverage or failure to furnish satisfactory evidence of insurance is cause for termination of this Agreement. The Consultant shall procure, at its own cost, and shall 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 work hereunder by the Consultant, its agents, representatives, employees or subcontractors.

- Commercial General Liability Insurance written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage and employer's liability.
- Automobile Liability insurance with limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage, covering owned, non-owned and hired automobiles.
- Professional Liability Insurance with limits no less than \$1,000,000 limit per claim and in the aggregate. Coverage shall apply to Consultants with Professional Licenses.

**MODIFICATIONS:** Either party may request changes in the scope of services or performance standards. Any and all modifications shall be in writing, signed and dated by each of the parties. Such modifications shall be incorporated into this agreement by way of an addendum.

**NON-DISCRIMINATION:** Shoreline School District is an equal opportunity employer. No person shall on the grounds of race, creed, color, national origin, marital status or gender be excluded from participation in, be denied the benefits of or otherwise be subject to discrimination under and activity performed pursuant to this agreement.

**NOTICES:** Any notice or demand required under this agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt. Either party may change the address to which notice are sent by sending written notice of such change of address to the other party.

**OWNERSHIP OF WORK PRODUCTS AND RESTRICTION AGAINST DISSEMINATION:** All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the District and may be used by the District for any purpose without additional compensation to the Contractor. The Contractor agrees not to assert any rights and not to establish any claim under design or copyright laws. The Contractor agrees to provide the District access to all retained materials for a period of three years after final payment under this agreement. Unless otherwise directed by the District, the Contractor may retain copies of all materials.

**PAYMENT:** The District shall not make payment in advance or in anticipation of services or supplies to be provided under this agreement. All payments to the Contractor are conditioned upon (1) Contractor's submission of a properly executed and supported voucher for payment, including such supporting documentation of performance, of costs incurred or paid, or as otherwise provided for in the body of this Agreement, and (2) acceptance and certification by the District if satisfactory performance by the Contractor. Unless otherwise noted in the Agreement, (1) all acceptable vouchers for payment due to the Contractor shall be paid within thirty (30) days after receipt by the District, and (2) all expenses necessary to the Contractor's performance of this Agreement shall be borne in full by the Contractor.

**PREVAILING WAGES:** Pursuant to RCW 39.12, no worker, laborer, or mechanic employed in the performance of any part of this Agreement shall be paid less than the "prevailing rate of wage" (in effect as of the date that bids are due) as determined by the Industrial Statistician of the Department of Labor and Industries, ESAC Division, PO Box 44540, Olympia WA 98504-4540, Telephone (360) 902-5335. The schedule of the prevailing wage rates for the locality or localities where this Work will be performed is available on the Department of Labor and Industries website at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> for King County and made a part of this Agreement by reference as though fully set forth herein. A copy of the schedule of prevailing wage rates is available for viewing at the School District and can be mailed upon request. The Contractor shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates. The Industrial Statistician will answer questions relating to prevailing wage data upon request.

Pursuant to RCW 39.12.060, in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries of the state, whose decision therein shall be final and conclusive and binding on all parties involved in the dispute.

The Contractor shall defend, indemnify and hold the School District harmless, including attorneys' fees, from any violation or alleged violation of RCW 39.12 pay all royalties and license fees, shall defend suits or claims for ("Prevailing Wages on Public Works") or RCW 51 ("Industrial Agreement between Shoreline School District and Contractor Insurance"), including without limitation RCW 51.12.050, by the Contractor or any Subcontractor of any tier.

**RECORD CHECK:** Contractor, who will have regularly scheduled unsupervised access to children, and/or hire employees who will have regularly scheduled unsupervised access to children, shall perform a record check through the Washington State Patrol criminal identification system under RCW 43.43.830-43.43.834, 10.97.030 and 10.97.050, and through the Federal Bureau of Investigation before any services are rendered under this agreement. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor shall provide a copy of the record before any services are rendered under this agreement. The Contractor shall pay for the requirements set forth in this paragraph.

**RELATIONSHIP WITH THE DISTRICT:** Contractor agrees they have not been assisted or coerced by any current or former employee of the District whose duties relate (or did relate) to the District solicitation, or prospective Contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. In addition, you agree to abide by the District Policy 7324 on Relations with Vendors and the Public.

**RESTRICTIONS:**

- Alcohol/Chemical Substances: Use, distribution, showing evidence of having consumed, selling, soliciting or facilitating the sale of alcohol or illegal drugs is prohibited. Possession of drug paraphernalia or any item purported to be such is also prohibited.
- Tobacco: The use of any tobacco products by contractors or visitors shall be prohibited on school district property. This shall include all district buildings, grounds, and district-owned vehicles.
- Firearms: It is a violation of district policy and state law for any person to carry a firearm or dangerous weapon on school premises, school-provided transportation or areas of other facilities being used exclusively for school activities.
- Gifts/Gratuities: District employees may not accept gifts or favors of value in their business relations with commercial firms or persons with whom the district does business unless they are recognized under procedural guidelines or subject to the judgment of the superintendent. No management employee shall request or receive, directly or indirectly, anything of value for or on account of his/her influence with respect to any act or proceeding of the school district, when such act or proceeding shall inure to the benefit of those offering the thing of value.

~ END ~