

SMALL WORKS ROSTER  
STANDARD TERMS AND CONDITIONS

As authorized by Spokane County Procurement Policy No. PPO400-15, the standard terms and conditions outlined herein apply to small public works procured by all Spokane County Departments using the Small Works Roster (SWR) Process.

**GENERAL CONDITIONS**

- 1.01 SPECIFICATIONS CONTAINED IN BIDDER'S RESPONSE:** Any units not conforming to bidder's exact specifications, when accepted by the County, may be rejected, and it will be the responsibility of the contractor and/or bidder to conform with the requirements unless deviations have been specifically cited by the bidder and acceptance made on the basis of the exception. The County reserves the right to waive or take exception to these specifications if it be to Spokane County's greatest advantage or best interest.
- 1.02 INTENT OF THE SPECIFICATIONS:** The specifications are intended to be precise where a specific service, make, model, or trade name is requested. Whenever a make, model or trade name is specified, only the specified item or a County-approved substitute may be used. The equal or the approved substitute means that the make, model or trade name will be given consideration if they fulfill the same performance requirements. The County reserves the right to make the decision on acceptability.
- 1.03 DEFINITIONS:** Whenever the term "owner", "purchaser" or "County" appears in the document, it shall be understood to mean "Spokane County, a Political Subdivision of the State of Washington." The term "contractor", "seller" or "vendor" refers to the second party of the contract, and the term "Architect" means "Spokane County, Washington" when no architect is employed for the project.
- 1.04 SUBMISSION OF POST BID INFORMATION:** If the Proposal Form provides for quotation of a lump sum bid or bids for all or parts of the construction, the Bidder whose bid is accepted shall furnish to the County, within seven (7) days after delivery of the Notice of Award, a detailed "Lump Sum Bid breakdown" in the form and to the extent required by the County, together with a designation of the work to be performed by the Bidder's own forces. The "Lump Sum Bid breakdown" should be arranged in a format matching the Specifications, as closely as possible, so that it can also be used in a progress payment schedule guide. The "Lump Sum Bid breakdown" must be subdivided to correspond to the project manual index and must include additional cost subdivisions for mechanical and electrical subcontractors. The total of the items in the "Lump Sum Bid breakdown" shall equal the lump sum bid.
- Within seven (7) days after delivery of the Notice of Award, the Bidder, whose bid is accepted shall supply the County with a list of all names of subcontractors and/or other persons or organizations (including those who are to furnish materials and equipment fabricated to a special design) for all portions of work as proposed in their submittal. Bidder is to arrange this statement into a format matching the specification arrangement as closely as possible. Bidder will be required to establish to satisfaction of Architect and County, the reliability and responsibility of proposed subcontractors to furnish and perform the work described in the sections of the Project Manual pertaining to such proposed subcontractors' respective trades. If the County or the Architect finds cause for objection to the use of subcontractor or other person or organization (including those who furnish materials and equipment fabricated to a special design), then the Bidder may be required, at the sole discretion of the County, to provide a substitute subcontractor(s), person(s) or organization(s), at no additional cost to the County. Subcontractors and other persons and organizations proposed and accepted shall not be substituted or changed except with written approval of the County and the Architect. At the County's sole discretion, the County may specify, on a per-job basis, the minimum percentage of work to be performed by the prime contractor's own forces.
- 1.05 NON-DISCRIMINATION:** During the performance of this contract, the Contractor and its subcontractors, if used, shall not discriminate on the basis of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age or the presence of any sensory, mental or physical handicaps in employment or application for employment or in the administration or delivery of

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services or any other benefits under the contract except to the extent permitted by bona fide occupation qualifications.

**1.06 RELATIONSHIP OF THE PARTIES:** It is intended that an independent relationship will be created by this Contract. The County is interested only in the results to be achieved, and the conduct and control of all services of work will lie solely with the Contractor. No agent, employee, servant or otherwise of the Contractor shall be or shall be deemed to be an employee, agent, servant or otherwise of the County for any purpose, and the employees of the Contractor are not entitled to any of the benefits that the County provides for County employees. The Contractor will be solely and entirely responsible for its acts and for the acts of its agent(s), employee(s), servant(s), subcontractor(s), or otherwise during the performance of their contract(s). In the performance of the services herein contemplated, the Contractor is an independent contractor with the authority to control and direct the performance and details of the work, the County being interested only in the results obtained; however, the work contemplated herein must meet the approval of the County pursuant to the provisions of the agreement under which the services and work were let to the Contractor.

**1.07 COMPLIANCE WITH LAWS:**

**A.** The Contractor, in the performance of the Contract, agrees to comply with all applicable federal, state and local laws, ordinances and regulations including, but not limited to, those pertaining to O.S.H.A. and W.I.S.H.A. and those pertaining to civil rights. The Contractor agrees to indemnify and defend the County against any loss, cost, liability or damage (including reasonable attorney fees) due to the Contractor's violation of this section.

**B.** Material Safety Data Sheets (MSDS) will be included with the delivery of any material requiring this documentation per O.S.H.A. regulations.

**C.** The County may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

**D.** All laws of the State of Washington relating to contracts for public works shall be a part of this contract with the same effect as if each were fully set forth herein. Specific reference, without limitation, is made to:

- RCW 36.32. Relating to County Commissioners.
- RCW 36.32.250 Relating to competitive bidding and the small works roster process.
- RCW 39.04 Relating to public works contracts
- RCW 39.04.155 Relating to small works roster contract procedures and limited public works process.
- RCW 39.04.200 Relating to the listing of contracts awarded under the small works roster process
- RCW 39.06 Relating to public works – registration, licensing, of contractors
- RCW 39.08 Relating to contractor’s bond
- RCW 39.12 Relating to prevailing wages to be paid on public works and under public building service maintenance contracts and posting of statement of intent
- RCW 39.16 Relating to resident employee
- RCW 49.28 Relating to hours of labor
- RCW 50.24 Relating to unemployment compensation and payment of contributions by employers
- RCW 51.16 Relating to assessment and collection of premiums payrolls and records
- RCW 60.28 Relating to lien for labor, materials, taxes on public works
- WAC 296-127 Relating to public work, ordinary maintenance and prevailing wage

**1.08 CONTRACT ADMINISTRATOR/CONTRACT ADMINISTRATION:** The County Engineer (or designee) shall perform the duties and responsibilities of Contract Administrator for work that has been solicited and contracted by the County Division of Engineering. The County department head

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(or designee) of the department or agency requesting the work shall perform the duties and responsibilities of Contract Administrator for work that has been awarded and contracted through the County Purchasing Department. Project documents will clearly reflect Contract Administration duties.

- 1.09 CONTRACT MANAGER/CONTRACT MANAGEMENT:** The County Engineer (or designee) shall perform the duties and responsibilities of Contract Manager for work that has been solicited and contracted by the County Division of Engineering & Roads. The County Purchasing Department shall perform the duties and responsibilities of Contract Management for work that has been solicited and contracted through the County Purchasing Department.
- 1.10 INSURANCE:** The Risk Management Office has drafted standard language for insurance, indemnification requirements and other related risk-management issues. The County standard risk-management-related language shall be attached and incorporated into the request for quotation, ITB and all related contract documents; however, the pertinence of certain clauses and language should be taken into consideration on a case-by-case basis. If standard language for a given project is potentially inappropriate, then the issuing department shall confer with the Risk Manager before making changes to the standard language. The successful bidder shall be required to pay for, provide, and maintain insurance with coverage that satisfies the requirements of the County Risk Manager and that meets all terms and conditions of the contract bid and/or award. All risk-management-related language, including, without limitation, the certificate of insurance, is subject to review and acceptance by the County Risk Manager.
- 1.11 LIQUIDATED DAMAGES:** Time is of the essence in the performance of the contract. Because the County finds it impractical to calculate the actual costs of delays, liquidated damages, if applicable, will be set forth in the terms and conditions of the contract bid and/or award.
- 1.12 PAYMENTS - PROJECTS SOLICITED BY ENGINEERING & ROADS:** For work that has been solicited by the Division of Engineering & Roads, payment details will be outlined in the Terms and Conditions for each contract bid and/or award.
- 1.13 PAYMENTS – PROJECTS AWARDED BY THE PURCHASING DEPARTMENT:** Applications for payment will be submitted to the Spokane County Purchasing Department, Attn: PW Contract No. (*specify the County Project No. & Title.*) and be made on the Spokane County Application for Payment Form that will be provided by the County. The County must approve the use of any other “application for payment” form in advance.
- A. Progress payments:** Payments of an invoice for work performed will be for ninety-five percent (95%) of the principal amount, plus one hundred percent (100%) of the tax amount. For contracts of less than one hundred fifty thousand dollars (\$150,000) in value, when requested by the Contractor and approved by the County, a retainage amount of ten percent (10%) of work performed (including tax) will be held in lieu of providing a Contractor's bond (Performance Bond and Payment Bond). Payments of an invoice for work performed will be for ten percent (10%) of the total of the principal amount, plus tax. The balance of the payment request will be held by the County as retainage.
1. Payment shall be made thirty days (30) in arrears for work performed, provided that a minimum of one (1) copy of a properly prepared payment application, utilizing a Spokane County Application For Payment form, is delivered to the Architect (or the Purchasing Department, if there is no Architect performing construction services) for certification and approval no later than the 10th day of the month following the month in which work was completed. The County shall make payment to the Contractor not later than the 10th day of the following month. If an Application for Payment is received by the Architect (or the Purchasing Department, if no Architect) after the application date fixed above, the County shall make payment not later than thirty (30) days after the Architect (Purchasing Department, if no Architect) receives a properly

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prepared Application for Payment. A properly prepared Application for Payment is one that contains no significant errors or omissions and is signed and certified as required. If the Payment Application contains significant errors or omissions, the payment will be made within thirty (30) calendar days from the Purchasing Department's receipt of a corrected payment application. The County shall be the final judge as to what constitutes a significant error or omission. All payment requests will reference the County's project number. NOTE: As previously indicated, use of a non-County Payment Application form must be pre-approved by the County.

2. The last, or final, application for payment (representing the remainder of 100% of the value of the contract) is exempt from the submission date requirement and will be paid (retainage requirement applies) within thirty (30) calendar days from receipt of a correct and proper Payment Application by the Purchasing Department. Note: An application for payment of retainage is neither required nor desired and should not be submitted.

**B. Retainage Payment:** Retainage will not be paid sooner than forty-five (45) days after project acceptance. The date of project acceptance begins the forty-five (45)-day retainage period. For work solicited through the Purchasing Office, project acceptance may be made at other than a public meeting, by:

- The Purchasing Agent, for projects with estimated costs of \$50,000 or less [County Code 1.04.070]; or,
- The Purchasing Agent, with ratification by the County Chief Executive Officer, for projects with estimated costs exceeding \$50,000 to \$300,000 [County Code 1.04.070]; or,
- A majority of the Board of County Commissioners, or its chair acting on behalf of the Board, for projects at any estimated costs.

Before the release of retainage, the Spokane County Purchasing Department must be in possession of the six (6) documents listed below, in proper form. Please note: It is the Contractor's responsibility to prepare and/or submit the documents listed in numbers 1, and 5, below:

1. Architect/Engineer/Department approval and certification of the request for final application for payment.
2. Project acceptance by the authorized County Representative.
3. Certificate of Payment of Contributions, Penalties, and Interest on Public Works Contract (required on projects over \$35,000.00) received from the State Department of Revenue. (Requested by the County when the Resolution of Acceptance is received).
4. Certification of Payment of Contributions from the Washington State Employment Security Department (Requested by the County when the Resolution of Acceptance is received).
5. Affidavits of Prevailing Wages Paid approved by the Department of Labor & Industries on the Contractor and each Subcontractor.
6. Reports on Claims (liens) filed against the project or Contractor from the County Auditor, Clerk of the Board of County Commissioners and Department, 45 days from date of Resolution of Acceptance.

**C. Late Payment:** Moneys past due may bear a finance charge as stipulated by law. The current rate is 1% per month.

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**1.14 METHOD OF PAYMENT:** The method of payment will be at the Owner's sole discretion using any of the following:

- A. By warrant (check);
- B. By the County's credit card – otherwise referred to as “payment card” or “P-Card”;
- C. Automated Clearing House (also referred to as ACH);
- D. Electronic Payment (i.e., “E-Payment”, also referred to as e-Payables)

The pricing submitted by the vendor and accepted by the County is inclusive of applicable payment terms, as well as, any and all fees incurred by the vendor through their financial institutions in accepting any of the above referenced payment methods. No additional fees or charges to the County shall apply, unless otherwise preapproved by the County. Additionally, unless otherwise set forth in the Contractor's bid, quote, submittal, and unless accepted by the County in the contract, all payments shall be made in arrears and with payment terms of "Net 30 Days" from the date that the County receives a correct and accurate invoice. An accurate invoice must, in part, reference a valid County contract/agreement or purchase order number.

**1.15 CHANGE ORDERS:**

- A. The County may order any changes in the work, at any time, without invalidating the Contract and without notice to the Contractor's sureties, if any. If changes are made which will increase or decrease the cost of the project and/or the time necessary to complete it, a change order will be negotiated to compensate for the changes. Change orders must be approved by both parties, in writing, before they become part of the contract.
- B. The Contractor shall perform the work as changed, despite any disputes or disagreements regarding appropriate adjustments to Contractor's compensation or any other matter. If any change ordered in the work results in a reduction in the work, Contractor shall neither have nor assert any claim for, nor be entitled to, any additional compensation for damages or for loss of anticipated profits on work that is eliminated.
- C. The Contractor shall commence the work, as modified by such change, so that all dates set forth in the Contractor's current construction schedule, as approved by the County or its representative, will be met. In the event of an emergency, which the County or its representative determines endangers life or property, the Contractor shall execute the work as required by the County or its representative. If the Contractor fails to commence work in a timely fashion, the County, at its sole option, shall be entitled to: (1) cancel the contract according to the provisions for termination; and/or, (2) invoke the liquidated damage provisions.
- D. Any allowances for combined overhead and profit included in the total cost to the County shall be based on the following schedule:
  - 1. The Contractor may add fifteen percent (15%) of the cost when the specific change to the work has an impact of less than two thousand dollars (\$2,000), or ten percent (10%) of the cost when the specific change to the work has an impact of two thousand dollars (\$2,000) or greater, for overhead and profit for work performed by their own forces, and six percent (6%) for overhead and profit to the cost for work performed by Subcontractors.
  - 2. The Subcontractor may add fifteen percent (15%) of the cost when the specific change to the work has an impact of less than two thousand dollars (\$2,000), or ten percent (10%) of the cost when the specific change to the work has an impact of two thousand dollars (\$2,000) or greater, for overhead and profit for work performed by their own forces.

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3. The Contractor may add an amount not to exceed three percent (3%) for the additional bond premium.

4. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over one-thousand dollars (\$1,000) be approved without such itemization.

**1.16 PERMITS AND FEES:** The contractor shall furnish all permits, inspection fees, and fees required in the performance of the work, including those charged under RCW 39.12.070 by the Department of Labor and Industries for the approval of statements of intent to pay prevailing wages, the certification of affidavits of wages paid and other fees or requirements as specified in RCW. The County may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The Contractor is responsible for payment of all fees resulting from these RCWs.

**1.17 ARBITRATION:** There will be no arbitration arising out of or relating to any Contract resulting from this Invitation to Bid.

**1.18 SAFETY:** The Contractor will comply with all applicable laws, ordinances, rules and regulations of any public authority for the safety of persons and property, including requirements of the Washington Industrial Safety and Health Administration (W.I.S.H.A.), per the Revised Code of Washington (RCW), Chapter 49.17, and the Washington Administrative Code (WAC) 296-24.

**1.19 EQUIPMENT/MATERIAL:**

A. The Contractor warrants that all materials, equipment and services provided for under the Contract are subject to all warranties arising by operation of law and additionally conform to the specifications imposed by the County; all parts and materials furnished are of a good marketable quality, of latest model and current date, exclude surplus remanufactured and used products unless so specified and accepted by the County, and are fit for the known purpose for which they are sold. Said warranty being in addition to any standard warranty or service guarantee given by the Contractor to the County.

B. All merchandise is subject to the County's inspection within a reasonable time after arrival at the ultimate destination. If the merchandise fails to comply with the County's specifications or is otherwise of an unsatisfactory condition, the County may return said merchandise to Contractor at Contractor's expense. Payment(s) made by the County for material(s) shall neither signify, nor constitute, acceptance by the County.

C. The Contractor warrants that the equipment and/or materials furnished under the Contract do not infringe upon any patent, registered trademark or copyright, and agrees to hold Spokane County harmless in the event of any infringement or claim thereof.

D. The Contractor warrants that all merchandise furnished under the Contract is free and clear of all liens and encumbrances and that the Contractor has a good and marketable title to same.

E. The County reserves the right to waive or take exception to its own specifications, if it be to the greatest advantage or in the best interest of Spokane County.

**1.20 GENERAL SITE AREA:** The Contractor shall be responsible for clean up of job sites and removal of all rubbish. The Contractor shall contact Spokane County for disposition of any material or equipment found on the jobsite.

**1.21 TRENCH EXCAVATION:** Trench excavations that exceed a depth of four (4) feet require adequate safety systems for the trench excavation that meet the requirements of the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

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- 1.22 USE OF RECYCLED CONSTRUCTION MATERIALS:** The County prefers that materials used in this project be recycled or reused materials whenever practicable. Such use, however, must be pre-approved by the County, and any recycled or reused material must meet or exceed the specifications set forth in the construction documents.
- 1.23 VENUE STIPULATION:** Any Contract resulting from a County Invitation to Bid will, and shall be, construed as having been made and delivered within the State of Washington, and the laws of the State of Washington shall be applicable to their construction and enforcement. Any action at law, suit in equity, or judicial proceeding for the enforcement of the Contract or any provisions therein shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington.
- 1.24 SUBCONTRACTOR LIST REQUIREMENT:** The Contractor will provide a list of all subcontractors anticipated to be used on the project. If a subcontractor list is not submitted with the bid, it must be delivered to the County agency, acting as lead for the bid solicitation, within forty-eight (48) hours after the bid due date, or as soon after the bid due date and time as is practical and acceptable to the County. Failure to provide a list in a timely manner can delay tabulation of the bids and could be a cause to reject the bid as non-responsive.
- 1.25 CONTRACTOR'S BOND:** Contractors shall pay for and file a Performance Bond and a Payment Bond for all public work, unless the work has been specifically exempted by the County under the Limited Public Works Process (work estimated to cost less than \$35,000 and which are so designated at the sole option of the County).
- A.** The Contractor will be required to pay for and file a Performance Bond and Payment Bond to the STATE OF WASHINGTON AND SPOKANE COUNTY (dual obligees) which will always be, at a minimum, equal to one hundred percent (100%) of the contract price, including sales tax and all additions, deletions or extensions in time. Any additions, deletions or extensions in time shall not relieve a surety of its liability in any manner whatsoever. The bond is to insure faithful and complete performance of the contract and payment of all taxes and obligations to laborers and material-men arising from the project. The bond shall be executed by a Surety Company acceptable to the Spokane County Board of County Commissioners. The Performance Bond and Payment Bond shall remain in effect for one (1) year following the formal acceptance of the work.
  - B.** When a contractor's bond is furnished, retainage equal to five percent (5%) of a payment request amount (excluding sales tax) will be deducted and held as retainage. The retainage period is forty-five (45) days following acceptance of the work as one hundred percent (100%) completed by the County, or until receipt of all required releases from the State's Departments of Revenue, Employment Security and Labor and Industries, plus settlement of any liens or claims filed pursuant to Chapter 60.28 RCW, whichever is later. Bidders are cautioned that actual payment of retainage historically has taken as much as fifty-five to ninety (55 to 90) days from the contractor's notification to the County that the work is one hundred percent (100%) completed.
  - C.** In lieu of a contractor's bond, the County may, on contracts of one hundred fifty thousand (\$150,000) or less, hold retainage in an amount equal to ten percent (10%) of the contract including tax. The option, if offered, will be listed in the bid document. If the contractor wants to exercise the option, the contractor will note their desire to do so in the bid response section. The retainage period is forty-five (45) days following acceptance of the work as complete by the County, or until receipt of all required releases from the State of Washington Departments of Revenue, Employment Security and Labor and Industries, plus settlement of any liens or claims filed pursuant to chapter 60.28 RCW, whichever is later. Bidders are cautioned that actual payment of retainage historically has taken as much as fifty-five to ninety (55 to 90) days from the contractor's notification to the County that the work is one hundred (100%) completed.

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- 1.26 PROJECT NUMBER:** The project number will also serve as the contract number once an agreement is entered into subsequent to the bid award. This number will be referenced in all written material associated with the project/contract.
- 1.27 REJECTION OF BIDS:**
- A.** The Spokane County Board of County Commissioners or their designee reserves the right to reject any or all bids, portion or parts thereof, and to waive all minor irregularities in bidding.
  - B.** The Commissioners or their designee reserves the right to waive or take exceptions to the specifications, if it is to Spokane County's greatest advantage or best interest.
  - C.** The Commissioners or their designee reserves the right to reject any or all proposals for good cause. Without limiting the generality of the foregoing, the County may reject any Bid which is incomplete, non-responsive, obscure or irregular, any Bid which omits a bid on any items for which bids are required, any Bid which omits unit prices, if unit prices are required, any Bid in which unit prices are unbalanced in the opinion of the County, and any Bid from a Bidder which has previously failed to perform satisfactorily or which has failed to meet contract deadlines to complete construction or delivery of any nature.
  - D.** Bidders are herewith notified that all bids or proposals are likely to be rejected if the lowest responsive bid received exceeds the project's estimate by an unreasonable amount or the budget by any amount. If all bids are rejected for either of these reasons, the project may be deferred and re-bid when more competitive conditions exist.
- 1.28 CANCELLATION:** This contract is cancelable by the County upon thirty (30) days written notice, with no additional cost or penalty to the County.
- 1.29 ASSIGNMENT:** The Contractor may not, without the prior written approval of Spokane County, assign, sublet or transfer, in whole or in part, its interest in this project.
- 1.30 TERMINATION:** Contract(s) resulting from this bid may be terminated, in whole or in part, under the following conditions: 1) by mutual written agreement; 2) by the County for breach by the bidder of any of the obligations or requirements set forth in the contract documents. The County retains the option to require the bidder to assume liability for any and all damages, including the excess of re-procuring similar products or services; 3) for the convenience of the County; or 4) by the County for non-appropriation of funds.
- 1.31 TERMINATION BY THE COUNTY WITHOUT CAUSE:** Notwithstanding any other provisions contained herein, the County, without cause, may terminate the contract between the parties by providing notice to the Contractor. Upon termination under this section: 1) All remaining obligations of the parties are discharged, but any right based upon breach or performance occurring prior to termination survives; 2) If the reasonable costs of performance incurred by the Contractor prior to termination exceed the amount paid by the County to the Contractor on the Contract Sum, the County shall reimburse the Contractor in the amount of such excess; 3) If the amount paid by the County to the Contractor on the Contract Sum exceeds the reasonable costs of performance incurred by the Contractor prior to termination, the Contractor shall reimburse the County in the amount of such excess; 4) Any funds obtained or retained by the Contractor as provided in 2) or 3) of this paragraph, shall constitute full payment and consideration for the services performed by the Contractor prior to termination.
- 1.32 TIME FOR COMPLETION:** In submitting a bid, the bidder is agreeing to start work on the commencement date specified in the written Notice to Proceed from the County and to fully complete the work within the contract time period with the understanding that time is of the essence in the performance of this contract.
- 1.33 INSPECTION AND ACCEPTANCE:** Inspection and approval of the work shall be made by the County's Contract Administrator. For work performed pursuant to RCW 39.04.155, final acceptance of the work as complete shall be made pursuant to RCW 39.08.030 and County Code 9.30 for work

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solicited by the County Engineer; or, pursuant to RCW 39.08.030 and County Code 1.04.070 for work solicited by the County Purchasing Agent.

**1.34 PREVAILING WAGES:**

- A. The prevailing rate of wages to be paid to all workers, laborers, or mechanics employed in the performance of this contract shall be in accordance with the provisions of Chapter 39.12 RCW, as amended, and shall be those in effect at the time and date of the bid opening or bid due date. The rules and regulations of the Department of Labor and Industries, and the schedule of prevailing wages for the locality or localities where this contract will be performed as determined by the industrial statistician of the Department of Labor and Industries, are incorporated by reference as a part of the Contract. Inasmuch as the Contractor will be held solely responsible for determining the correct labor classification(s) and paying the correct and proper prevailing wages and benefits, it is imperative that the Contractor familiarize itself with the current wage and benefit rates before submitting bids based on these specifications. The applicable prevailing wage schedule will be the schedule in effect at the date and time a bid response is due. The Contractor is responsible for all fees resulting from these RCW's.
- B. The State of Washington Department of Labor and Industries issues revised wage schedules every 6 months and become effective approximately the first of March and the last of August. The wage schedule that will apply to this bid will be the schedule in effect at the time and date of the actual bid opening (the published date including any changes made through the issue of addenda). Therefore, the bidder is cautioned to be mindful that addendum changing the bid opening date could make the enclosed schedule obsolete. The bidder should obtain a current schedule from the Washington State Department of Labor and Industries if there is any question. In the preparation of a bid, based on these specifications, the bidder is solely responsible to: 1) Use the schedule in effect at the bid opening date and time; 2) Determine the appropriate labor classification(s); and 3) Utilize the appropriate and correct prevailing wage and benefit rate(s).

**1.35 GUARANTEE:**

- A. Unless a longer period is specified, the period of the guarantee is one (1) year from the date of final acceptance of the work. Defects in design or quality of work, as guaranteed herein, shall be rectified in all units furnished. The successful bidder shall, at their own expense, and without any cost to Spokane County, replace all parts failures and make all repairs that may be required or made necessary by reason of defective design, material, or quality of work, or by reason of non-conformance with the specifications. Guarantee claims rectified by the Bidder are in turn hereby guaranteed as stated above for the period of the guarantee.
- B. Neither the final certificate of payment, nor any provisions in the Contract Documents, nor partial or entire occupancy of the premises by the County shall constitute an acceptance of work not completed in accordance with the Contract Documents nor shall it relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or quality of work. The County will give notice of observed defects with reasonable promptness.

**1.36 CORRECTIONS OF WORK AFTER FINAL PAYMENT:** For a period of one (1) year from the date of final acceptance, the Contractor shall remedy any defects, due to faulty materials and/or quality of work, and pay for any damage to other work resulting therefrom.

**1.37 SPECIAL CONDITIONS – FOR PROJECTS SOLICITED BY ENGINEERING & ROADS:**

- A. All work performed under this document will be in accordance with and as described in the current edition of the *Spokane County Standards for Road and Sewer Construction*, and the current edition of the *Washington Department of Transportation Standard Specifications and Standard Plans for Road, Bridge, and Municipal Construction*, as amended. This requirement may be amended or supplemented by any special provisions and plans provided with each project arising under this document. These special provisions and plans shall supersede any conflicting provisions of the Standard Specifications.

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- B.** Any inconsistency in the parts of the documents, plans, special provisions, specifications, Spokane County Standards or the current edition of the Washington State Department of Transportation Standards shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 3, 4, 5, and 6; 2 over 3, 4, 5, and 6; and so forth):
1. Special Provisions
  2. Project Plans
  3. Spokane County Standard Plans
  4. Amendments to Standard Specifications
  5. Standard Specifications
  6. Washington Department of Transportation Standard Plans

**1.38 CONTRACT ADMINISTRATION:** The following identifies the titles, roles, duties and responsibilities of the authorized representatives of the Parties under this project. For the purposes of this project the Spokane County Contract Administrator, Project Manager and Contract Facilitator are defined below

1. "County Contract Administrator is the County Department Head or Elected Official, or his/her designee, as identified, in the Purchase Order/Agreement. On behalf of the County the Contract Administrator's responsibilities include: (a) performance of all the duties and responsibilities set forth in the Purchase Order/Agreement; (b) to serve as liaison with the Campus Security Coordinator for Contractor's compliance to background check and security access requirements; (c) to anticipate what (if any) County policies may affect or impact this contract and to work to address such issues to ensure compliance and congruity with County policies; (d) the duties and responsibilities listed for the County Project Manager, if not delegated as witnessed by being named in that role as identified in the Purchase Order/Agreement; (e) serving as the primary point of contact in the day to day interaction with the contractor; (f) monitoring, reviewing and determining the acceptability of the contractor's accomplishment of the scope of work under the Purchase Order/Agreement; (g) the certification and authentication responsibilities as the Disbursing Officer under RCW 42.24.080 in connection with payments made for work performed under the Purchase Order/Agreement; (h) working out contractor performance schedules; (i) causing or initiating changes or modifications to the Purchase Order/Agreement to be coordinated through the County Contract Facilitator which may be subject to approval by the Board of County Commissioners; (j) performance of all other contract administration responsibilities; and (k) **Except for (g) and (j)** the listed duties and responsibilities may be delegated by the Contract Administrator to the Project Manager Any inconsistency in the parts of the documents, plans, special provisions, specifications, Spokane County Standards or the current edition of the Washington State Department of Transportation Standards shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 3, 4, 5, and 6; 2 over 3, 4, 5, and 6; and so forth):

2. "County Project Manager" (also sometimes referred to as "Owner's Project Manager"). If different than the County Contract Administrator he/she shall be designated by the County Contract Administrator by being identified to perform that role in the Purchase Order/Agreement. The County Project Manager's delegated duties and responsibilities include: (a) those listed for the County Contract Administrator, **except items (g) and (j)**; and (b) a preliminary review of the pay requests and pay applications on behalf of the Contract Administrator, but with the Contract Administrator making the final review of pay reviews and payment applications as indicated by item (e) under the County Contract Administrator; and (c) the administration, management or prosecution of all actions, duties and responsibilities to assure compliance, or completion, of the planning, oversight, coordination, execution, installation, construction and closeout of the project. For all On-Campus locations, the Facilities Director (or his/her designee) shall perform the duties and responsibilities of

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the County Project Manager. For Off-Campus locations, the County Project Manager's duties and responsibilities shall be performed by the County Contract Administrator unless the County Contract Administrator, together with the prior mutual written consent of the County Facilities Director, has delegated the duties and responsibilities of the County Project Manager to the Facilities Director (or his/her designee)Project Plans

3. "County Contract Facilitator" is the Buyer in the Spokane County Purchasing Department as assigned by the Purchasing Director and identified to perform this role in the Purchase Order/Agreement. The Contract Facilitator's responsibilities are ministerial in nature and include the following, each of which are subject to the initiation and final review and approval made by the Contract Administrator, and where applicable, approval by the Board of County Commissioners: (a) the receipt, reviewing and processing of changes and modifications to this Agreement; (b) executing contract term renewals; (c) adding additional users to the Agreement; and (d) processing of any other form of action that could change the Agreement.

**1.39 INDEMNIFICATION:**

1. The Contractor is an independent contractor and not the agent or employee of the County. No liability shall attach to the County for entering into this Contract or because of any act or omission of the Contractor except as expressly provided.

2. The Contractor agrees to defend, indemnify and hold the County and the County's Consultant(s), when used on the project, harmless from any and all claims, including but not limited to reasonable attorney fees, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to indemnify the County and Consultant shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the County or Consultant, their agents or employees. The Contractor's duty to indemnify the County and Consultant for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence or (a) the County or Consultant, their agents or employees, and (b) Contractor, its agents or employees shall apply only to the extent of negligence of the Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the County harmless shall include, as to all claims, demands, losses and liability to which it applies, the County's personnel-related costs, reasonable attorney's fees, court costs and all other claim-related expenses.

3. The Contractor's indemnification shall specifically include all claims for loss liability because of wrongful payments under the Uniform Commercial Code, or other statutory or contractual liens or rights or third parties, including taxes, accrued or accruing as a result of this contract or work performed or materials furnished directly or indirectly because of this contract.

4. Contractor further agrees that this duty to indemnify County applies regardless of any provisions in RCW Title 51 to the contrary, including but not limited to any immunity of Contractor for liability for injuries to Contractor's workers and employees, and Contractor hereby waives any such immunity for the purpose of this duty to indemnify County.

**1.40 LIQUIDATED DAMAGES:**

Time is of the essence of the contract. Delays inconvenience the public and interfere with and delay commerce. Delays also cost taxpayers undue sums of money, adding time needed for administration, engineering, inspection, and supervision.

Because the County finds it impractical to calculate the actual cost of delays, it has adopted the following formula to calculate liquidated damages for failure to complete the physical work of a contract on time.

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Accordingly, the Contractor agrees:

1. To pay (according to the following formula) liquidated damages for each calendar or working day (as specified in the time for completion in the bid documents) beyond the number of calendar or work days established for physical completion, and
2. To authorize the County to deduct these liquidated damages from any money due or coming due to the Contractor.

2 LIQUIDATED DAMAGES FORMULA

<b>LD = 0.15C/T</b>	
where:	
LD =	Liquidated damages per calendar or working day (rounded to the nearest dollar)
C =	Original contract amount plus change orders
T =	Original time for physical completion plus change orders

When the contract work has progressed to the extent that the County has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remains to physically complete the total contract, the County may determine the contract work is “substantially” complete for the purposes of this section. The County will notify the Contractor in writing of the substantial completion date. For overruns in contract time occurring after the date so established, the formula for liquidated damages shown above will not apply. For overruns in contract time occurring after the substantial completion date, liquidated damages shall be assessed on the basis of direct engineering and related costs assignable to the project until the actual physical completion date of all the contract work. The Contractor shall complete the remaining work as promptly as possible. Upon request by the County, the Contractor shall furnish a written schedule for completing the physical work on the contract.

Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction or payment of liquidated damages will, in any degree, release the contractor from further obligations and liabilities to complete the entire contract.

End of Standard Terms and Conditions.

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INSURANCE REQUIREMENTS

A. The Contractor shall furnish and maintain all insurance as required herein and comply with all limits, terms and conditions stipulated therein, at their expense, for the duration of the contract. Following is a list of requirements for this contract. Any exclusion that may restrict required coverage must be pre-approved by the Spokane County Risk Management Department. Work under this contract shall not commence until evidence of all required insurance, policy endorsement and bonding are provided to the County of Spokane. The Contractor's insurer shall have a minimum A.M. Best's rating of A-VII and shall be authorized to do business in the State of Washington. Evidence of such insurance shall consist of a completed copy of the certificate of insurance, signed by the insurance agent for the Contractor and returned to the Spokane County Department with whom the contract is executed. The insurance policy or policies will not be canceled, materially changed or altered without thirty (30) days prior notice submitted to the department with whom the contract is executed. The policy shall be endorsed and the certificate shall reflect that the County of Spokane is an additional named insured on the Contractor's general liability policy with respect to activities under the contract. The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

B. The policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the County shall be excess and not contributory insurance to that provided by the Contractor.

C. The Contractor shall not commence work, nor shall the Contractor allow any subcontractor to commence work on any subcontract until a Certificate of Insurance with additional insured endorsement, meeting the requirements set forth herein, has been approved by Spokane County Risk Management Department and filed with the department with whom the contract is executed. Upon request, the contractor shall forward to the Spokane County Risk Management Department the original policy, or endorsement obtained, to the Contractor's policy currently in force.

D. Failure of the Contractor to fully comply with the insurance requirements set forth herein, during the term of the Agreement, shall be considered a material breach of contract and cause for immediate termination of the Agreement at the County's discretion.

E. Providing coverage in the amounts listed shall not be construed to relieve the Contractor from liability in excess of such amounts.

F. **REQUIRED COVERAGE:** The insurance shall provide the minimum coverage as set forth below:

1. **GENERAL LIABILITY INSURANCE:** The Contractor shall have Commercial General Liability with limits of \$1,000,000.00 per occurrence, which includes general aggregate, products, completed operation, personal injury, fire damage and medical expense.

**ADDITIONAL INSURED ENDORSEMENT:** General Liability Insurance must state that Spokane County, its officers, agents and employees, and any other entity specifically required by the provisions of this Agreement will be specifically named additional insured(s) for all coverage provided by this policy of insurance and shall be fully and completely protected by this policy from all claims. Language such as the following should be used "Spokane County, Its Officers, Agents And Employees Are Named Additional Insured.

2. **PROOF OF AUTOMOBILE INSURANCE:** The Contractor shall carry, for the duration of this Agreement, comprehensive automobile liability coverage of \$1,000,000.00 for any vehicle used in conjunction with the provision of services under the terms of this Contract. Said policy shall provide that it shall not be canceled, materially changed, or renewed without thirty (30) days written notice prior thereto to Spokane County.

3. **WORKERS COMPENSATION:** When the Contractor has employees of the company, the Contractor shall carry Worker's Compensation Industrial Injury Insurance coverage and effective in Washington State. Proof of insurance shall be reflected on the Contractor's Certificate of Insurance or by providing the Contractor's State Industrial Account Identification Number.

4. **SPECIAL "X.C.U." PROVISIONS:** When demolition or blasting is involved in the work the Contractor shall provide excess coverage in the minimal amount of \$1,000,000.00 combined single limit, per occurrence, for Explosion, Collapse and Underground Damage (X.C.U.) for the project site. Said insurance coverage shall be subject to the same requirements as specified for the primary insurance coverage under this Agreement.

