

**SOUTH SOUND 911  
STANDARD TERMS AND CONDITIONS, SECTION 2 - SUPPLIES**

**STANDARD TERMS AND CONDITIONS, SECTION 2 - SUPPLIES**

UNLESS OTHERWISE REQUIRED BY THE SPECIFICATION OR AGREED TO IN WRITING, THE FOLLOWING TERMS AND CONDITIONS SHALL GOVERN THE RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES TO THE CONTRACT.

**2.1. SUPPLIER**

As used herein, the "Supplier" shall be the Respondent(s) awarded a contract pursuant to this Specification, whether designated as a Respondent, Seller, Vendor, Proposer, Bidder, Contractor, Merchant, Service Provider, or otherwise.

**2.2. ENTIRE AGREEMENT**

This Specification, purchase orders issued by South Sound 911 pursuant hereto, and the Supplier's submittal, in that order of precedence, shall constitute the "Contract" between the parties. Said documents represent the entire agreement between the parties and supersede any prior oral statements, discussions or understandings between the parties, and/or subsequent Supplier invoices. No modification of this Contract shall be effective unless mutually agreed in writing.

**2.3. APPROVED EQUALS**

Unless an item is indicated as "No substitute," special brands, when named, are intended to describe the standard of quality, performance or use desired. Equal items will be considered by South Sound 911 provided that the Supplier specifies the brand and model, and provides all descriptive literature, independent test results, specification sheets, schematic drawings, photographs, product samples, local servicing, parts availability, etc., to enable South Sound 911 to evaluate the proposed equal. Performance testing in the field may be required.

The decision of South Sound 911 as to what items are equal shall be final and conclusive. If South Sound 911 elects to purchase a brand represented by the Supplier to be an "equal," South Sound 911's acceptance of the item is conditioned on South Sound 911's inspection and testing after receipt. If, in the sole judgment of South Sound 911, the item is determined not to be an equal, the item shall be returned at the Supplier's expense.

When a brand name or level of quality is not stated in the Supplier's submittal, it is understood the Supplier's submittal shall exactly conform with those required in this Contract. If more than one brand name is stated in this Specification, Supplier(s) must indicate the brand and model/part number to be supplied.

**2.4. PRICE, RISK OF LOSS, DELIVERY**

**A. Firm Prices/Risk of Loss**

All prices shall remain firm during the term of this Contract. All prices shall be FOB, the place of destination (as defined in RCW 62A.2-319, as that statute may hereafter be amended), with freight prepaid and allowed (shipping costs included in unit prices), and risk of loss remaining with Supplier until delivery is tendered.

**B. Delivery**

Delivery will be to the designated addresses set forth in this Contract. Deliveries shall be between 9:00 a.m. and 3:30 p.m., Monday through Friday only, except holidays. Failure to make timely delivery shall be cause for termination of the order and return of all or part of the items at Supplier's expense except in the case of force majeure.

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**2.5. PACKING SLIPS, SHIPPING NOTICES AND INVOICES**

Packing slips and shipping notices shall be sent to the specific South Sound 911 Department receiving the item(s) and include complete description of items, contents of items if crated or cased, quantity, shipping point, carrier, bill of lading number and South Sound 911 purchase order number.

Each invoice shall show the South Sound 911 purchase order number, if applicable, quantity, unit of measure, item description, unit price and extended price for each line. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable. Invoices shall be sent to

South Sound 911  
Accounts Payable  
955 Tacoma Ave So., Suite 102  
Tacoma Washington 98402-2113

Any terms, provisions or language in Supplier's invoice(s) that conflict with the terms of this Contract shall not apply to this Contract unless expressly accepted in writing by South Sound 911.

**2.6. PAYMENT TERMS**

Payment shall be made through South Sound 911's ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. Payment will not be considered late if mailed or electronically disbursed within the time specified. Payment(s) made in accordance with this Contract shall fully compensate the Supplier for all risk, loss, damages or expense of whatever nature, and acceptance of payment shall constitute a waiver of all claims submitted by Supplier. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced. Invoices will not be processed for payment, nor will the period of cash discount commence, until all invoiced items are received and satisfactory performance of the Contract has been attained, and a properly completed invoice is received by South Sound 911. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.

**2.7. INCREASE OR DECREASE IN QUANTITIES**

South Sound 911 reserves the right to increase or decrease the quantities of any item awarded pursuant to this Contract and pay according to the unit prices quoted in the submittal with no adjustments for anticipated profit.

**2.8. EXTENSION OF CONTRACT**

This Contract shall be subject to extension by mutual agreement per the same prices, terms and conditions.

**2.9. COMPARATIVE PRICING**

If at any time during the term of this Contract, the Supplier reduces prices to other buyers purchasing approximately the same quantities stated on this Contract, the Supplier will immediately notify South Sound 911 of such fact, and the price(s) for future orders hereunder shall be reduced accordingly.

**2.10. CHANGES**

South Sound 911 at any time by written change order may make reasonable changes in the place of delivery, installation or inspection, the method of shipment or packing, identification and ancillary matters that the Supplier may accommodate without substantial additional expense.

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**2.11. COOPERATIVE PURCHASING**

The Washington State Interlocal Cooperation Act RCW 39.34 provides that other governmental agencies may purchase goods and services based on this Contract in accordance with the terms and prices indicated herein if all parties are agreeable. Each public agency shall formulate a separate contract with the Supplier, incorporating the terms and conditions of this Contract with South Sound 911. South Sound 911 shall incur no liability in connection with such contracts or purchases by other public agencies thereunder. It will be the Supplier's responsibility to inform such public agencies of this Contract. Supplier shall invoice such public agency as separate entities.

**2.12. WARRANTIES/GUARANTEE**

Suppliers warrant that all items: are merchantable; are new and unused unless otherwise stated; comply with all applicable safety and health standards established for such products by the Occupational Safety and Health Administration (OSHA), Washington Industrial Safety and Health Act (WISHA) and/or Consumer Products Section 2 – Supplies, Form No. SPEC-191A Page 3 of 5 Rev.: 08/7/07, 11/06/09, 09/16/10, 10/03/2011 Safety Act, and all other applicable state and federal laws or agency regulations; are properly packaged and contain appropriate instructions or warnings, including applicable MSDS sheets.

**2.13. PATENTS, TRADEMARKS AND COPYRIGHTS**

The Supplier warrants that the equipment and/or materials furnished pursuant to this Contract do not infringe on any patent, trademark or copyright, and agrees to indemnify, defend and hold harmless South Sound 911 in the event of any infringement or claim thereof.

**2.14. DEFAULT**

In the event of material default by the Supplier on any of the conditions of this Contract, the Supplier agrees that South Sound 911 may, at its election, procure the goods or services from other sources, and may deduct from the unpaid balance due the Supplier, or collect against the bond or security (if any), or may invoice and recover from the Supplier all costs paid in excess of the price(s) set forth in this Contract. The prices paid by South Sound 911 in good faith shall be considered the prevailing market price at the time such purchase is made.

**2.15. TAXES, LICENSES, PERMITS**

Unless otherwise required by applicable law, the tax provisions in Section 1 - Solicitation apply to this Contract. Except for state sales tax, the Supplier acknowledges that it is responsible for the payment of all taxes applicable to this Contract and the Supplier agrees to comply with all applicable laws regarding the reporting of income, maintenance of records and all other requirements and obligations imposed pursuant to applicable law.

The Supplier, at its expense, shall obtain and keep in force any and all necessary licenses and permits.

If South Sound 911 is assessed, made liable, or responsible in any manner for taxes contrary to the provisions of this Contract, the Supplier agrees to hold South Sound 911 harmless from such costs, including attorney's fees. In the event the Supplier fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, other than those taxes South Sound 911 is required to pay, then the Supplier authorizes South Sound 911 to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. Any such payments shall be deducted from the Supplier's total compensation.

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**2.16. FEDERAL, STATE AND MUNICIPAL LAWS AND REGULATIONS**

Supplier shall comply with all federal, state, and local laws and regulations in the performance of all terms and conditions of this Contract. The Supplier shall be solely responsible for all violations of the law from any cause in connection with its performance of work under this Contract.

**2.17. NONDISCRIMINATION**

The Supplier agrees to take all steps necessary to comply with all federal and state laws and policies regarding non-discrimination and equal employment opportunities. The Supplier shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Supplier with any of the non-discrimination provisions of this Contract, South Sound 911 shall be deemed to have cause to terminate this Contract, in whole or in part.

**2.18. PREVAILING WAGES PAID – IF REQUIRED**

If federal, state, local or any applicable law requires the Supplier to pay prevailing wages in connection with this Contract, and Supplier is so notified by South Sound 911, then the Supplier shall pay applicable prevailing wages as published by the State of Washington Department of Labor and Industries.

**2.19. CONFLICT OF INTEREST**

No officer, employee or agent of South Sound 911, nor any member of the immediate family of any such officer, employee or agent as defined by state law, shall have any personal financial interest, director indirect, in this Contract, either in fact or in appearance. The Supplier shall comply with all federal and state conflict of interest laws, statutes and regulations. The Supplier represents that the Supplier presently has no interest and shall not acquire any interest, director indirect, in the program to which this Contract pertains that would conflict in any manner or degree with the performance of the Supplier's services and obligations hereunder. The Supplier further covenants that, in performance of this Contract, no person having any such interest shall be employed. The Supplier also agrees that its violation of RCW 42.52 Ethics in Public Service shall constitute a breach of this Contract subjecting the Contract to termination.

**2.20. RIGHT TO AUDIT**

Upon South Sound 911's request, the Supplier shall make available to South Sound 911 all accounts, records and documents related to this Contract for South Sound 911's inspection, auditing, or evaluation during normal business hours as reasonably needed by South Sound 911 to assess performance, compliance and/or quality assurance under this Contract.

**2.21. TERMINATION**

South Sound 911 reserves the right to terminate this Contract at any time upon prior written notice to Supplier. Upon the effective date of termination specified in such notice, and payment by South Sound 911, all conforming supplies, materials or equipment previously furnished hereunder shall become its property.

**2.22. INDEMNIFICATION –HOLD HARMLESS**

The Supplier agrees to indemnify, defend and hold harmless South Sound 911, its officers, agents and employees, from and against any and all liability which may accrue to or be sustained by South Sound 911 for any claim, suit or legal action made or brought against South Sound 911 for the death of or injury to persons(including the Supplier's or subcontractor's employees),or damage to property involving the Supplier or

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subcontractor(s) and their employees or agents, or for any other cause arising out of and in connection with or incident to the performance of this Contract, except for injuries or damages caused by the sole negligence of South Sound 911. In this regard, the Supplier recognizes it is waiving immunity under Industrial Insurance Law, Title 51 RCW. This indemnification includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of South Sound 911. By the Supplier's acceptance of this order, he/she agrees that this subsection has been mutually negotiated.

**2.23. PUBLIC DISCLOSURE**

This Contract and documents provided to South Sound 911 by Contractor hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, South Sound 911 may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies.

**2.24. DISPUTE RESOLUTION**

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other remedies. This provision does not limit South Sound 911's right to terminate authorized by this Contract.

**2.25. GOVERNING LAW AND VENUE**

Washington law shall govern the interpretation of this Contract. The state or federal courts located in Pierce County, Washington, shall be the sole venue of any mediation, arbitration or litigation arising out of this Contract.

**2.26. ASSIGNMENT**

The Supplier shall not assign, subcontract, delegate or transfer any obligation, interest or claim to or under this Contract without the prior written consent of South Sound 911.

**2.27. WAIVER**

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

**2.28. SEVERABILITY AND SURVIVAL**

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

**2.29. CONFLICT WITH CONTRACT**

In the event of any conflict between this document, Standard Terms and Conditions Section 2, Supplies, and the Professional Services Contractor other type of Contract (Contract) ultimately negotiated and entered into between Respondent and South Sound 911, the provisions of the Contract shall prevail. However, absent any such conflict the provisions of this document, Standard Terms and Conditions Section 2, Supplies, are fully incorporated into and considered part of the Contract.

**2.30. DEBARMENT AND SUSPENSION**

The Contractor acknowledges that it is responsible to notify South Sound 911 of any federal, state or local debarment or suspension regarding Contractor, Contractor's employee(s), or any subcontractor used in regard to this agreement, that exists at the

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time this agreement is made or that occurs during the life of this agreement up to the effective date of termination. Failure to notify South Sound 911 is grounds for termination of the Contract. Debarment or suspension, if it affects the funding source for the project or impacts the Contractor's ability to perform, is grounds for termination of the Contract.

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