

COLUMBUS METROPOLITAN LIBRARY

Request for Qualifications

Enhanced Commissioning

Main Library, 96 South Grant Avenue, Columbus, OH 43215

RFQ CML # 21-023

Issued by

Procurement Department
96 S. Grant Ave.
Columbus, OH 43215

Deadline for Submittal

12/22/2021

No later than 12:00 NOON EST



REQUEST FOR QUALIFICATIONS

The Columbus Metropolitan Library is seeking signed & written qualifications for **Enhanced Commissioning**, according to the requirements described in the Scope and other documents included with this RFQ. The Identification Number is **RFQ CML # 21-023**

Statements of Qualifications ("SOQ") submittals will be emailed to procurement@columbuslibrary.org no later than 12:00 PM EST on 12/22/2021. Any SOQs arriving after 12:00 PM will be marked late and will not be considered for selection to provide the specified equipment, supplies, and/or services.

The Offeror declares to have read and understood and agrees to be bound by all the instructions, terms, conditions, and specifications of this Request for Qualifications ("RFQ") and agrees to fulfill the requirements of any contract for which it is selected to provide the specified equipment, supplies and/or services at the prices proposed during negotiations with the firm determined most qualified to provide the required services. The Offeror certifies, by signature affixed to this Cover Sheet, that the information provided by it in response to the RFQ, including certified statements, is accurate and complete.

Federal Taxpayer Identification Number (TIN)		
Name of person signing submittal (Please print or type)		Title
Offeror Name		
Mailing address		
City	State	ZIP
Telephone		
Contact Person		Fax Number
E Mail address		
Authorized Signature (Original signature only)		

THIS FORM MUST BE SIGNED AND SUBMITTED WITH THE SOQ

Qualifications

The Columbus Metropolitan Library ("Library") seeks to establish a prequalified listing of firms that will be available to provide Enhanced Commissioning Services for select construction and maintenance projects.

Services are required are anticipated to include:

- 2020VP Phase II Project – Barnett Branch: Renovate existing branch and possibly add an addition. Addition size and location to be determined during the concept phase of this project though we 3 anticipate it to be 10-12,000 sq ft.
- 2020VP Phase II Project – Marion Franklin Branch: Design a new stand-alone building approximately 10-12,000 sq. ft in size.
- 2020VP Phase II – Canal Winchester Branch: Design a new stand-alone building approximately 10-20,000 sq. ft in size. Size of the building will be determined once land is acquired.
- Various Maintenance and Modification Projects at Main: Modifications to interior layouts including replacement of aging furniture and fixtures, addition/deletion of partitions, and MEP (Mechanical/Electrical/Plumbing) changes. Various Maintenance and Modification Projects at Hilliard: Modifications to interior layouts including replacement of aging furniture and fixtures, addition/deletion of partitions, and MEP (Mechanical/Electrical/Plumbing) changes.
- Various studies of existing buildings to ensure MEP systems are operating at the most efficient levels.
- Various Maintenance and Modification Projects below \$50,000 at any location owned, leased or operated by CML.

It is anticipated that a single firm will be selected for these projects, with the option to add future projects as they are identified in the future. Enhanced commissioning services covered in this RFQ are to be provided through 12/31/2024.

If more than a single firm is selected, any firm selected to be included on the prequalified list must update its qualifications annually to remain on the list. Qualified firms will be ranked per project at the time when the Library is ready to begin the project. Projects may be added or deleted at the Library's discretion. The Library will assume that each firm submitting its qualifications in response to this RFQ is interested in all aspects of the scope of this RFQ.

Background

The Library is a county district library established in accordance with §3375.20 of the Ohio Revised Code. The Library, which is a separate legal entity, is financially, managerially, and operationally independent from both Franklin County and the City of Columbus. The Library is a political subdivision and receives the majority of its funding from the State of Ohio and locally voted property taxes.

Scope of Services

The primary objectives of this RFQ shall be to provide data necessary for the evaluation of competitive proposals that will result in an Agreement with the Library and proposer that meets our requirement(s). The Library desires to establish an eligibility list of qualified consultants to provide services on an "as-needed" basis.

- The selected firm will act as the owner's advocate and represent the owner in managing the design and construction process to attain the maximum energy efficiency and overall best sustainable

practices as it relates to the total ownership cost of the facility, considering both startup costs and long-term operational costs.

Pre-Construction Phase

- Assist the owner in the development and enforcement of a robust Owner's Project Requirements (OPR). The OPR will contain the owner's desire for energy, water, and gas efficiency, etc., for the life of the building. The OPR will define the economic criteria for the design team to evaluate efficiency options and the methodology used to determine building savings. The commissioning agent will be required to validate all such calculations.
- Simultaneously with the development of the OPR, the enhanced commissioning agent (ECA) will evaluate the Basis of Design (BOD) to insure the requirements of the OPR are met and expanded to enable the functional testing and commissioning of the systems.
- The (ECA) will provide a check list of standard energy efficient features in building design, one each for the architect, electrical engineer and mechanical engineer. The check list will provide a self-review mechanism for common and basic energy efficiency items, including but not limited to: lighting power density, EER/SEER/equipment efficiency, wall and roof insulation quantity and R-value, specification of DCV/economizers/heat wheels, etc. Within the checklist a space will be provided for architects and engineers to list specific energy efficient features in the building design.
- Develop and implement a Commissioning Plan. Update the Commissioning Plan throughout the design and construction phase. The Commissioning Plan shall include the Commissioning Schedule.
- Provide the Commissioning Specifications during the design phase to be included in the Construction Documents. The Commissioning Specifications shall include construction checklists as required and Functional Testing procedures.
- Assist the owner in review and approval of all design documents to insure the design will meet the owner's energy efficiency aspirations as well as the requirements set forth in the OPR.
- Assist the owner in review and approval of preliminary and final construction documents.
- Assist the owner in review of the design documents to insure the design will meet the requirements of the OPR and BOD and will meet the energy efficiency aspirations.
- Assist the owner in review of the documents at the following design stages: schematic design, design development, prior to mid-construction document phase and final construction document phase. At each review, provide a list of issues/concerns to the design team. Back-check the review comments in each subsequent design submission and provide feedback of the back-check to the owner.
- Meetings: Predesign, design document and construction document meetings between the owner, ECA and the design team as required.

Construction Phase

- Review submittals applicable to systems being commissioned. Provide comments for non-compliance.

- Chair Pre-Commissioning meeting with the Construction Team.
- Lead periodic commissioning meetings. Prepare meeting minutes for all meetings.
- Prepare and issue commissioning reports and issues logs and distribute to the construction team.
- Review O&M manuals.
- Assist the construction team in developing an owner training schedule. Verify the equipment training by the contractors for the occupants and staff.
- Provide Systems manual.
- Provide summary commissioning report.

Post Construction

- Review the building operation within 10 months after substantial completion.
- Provide copies of the commissioning report and systems manual to the Owner.

The proposal should include commissioning and functional testing of the following equipment/systems, (even if this equipment does not directly affect the energy usage of the building)

- 100% HVAC Equipment (partial testing or sample testing is not acceptable). The testing shall include all control devices.
- 100% Domestic Heating water system to include mixing valves and recirculating pumps and verification of recirculating system.
- 100% Plumbing; storm sewer sump pumps and sanitary sew sump pumps.
- 100% Lighting Controls (partial testing or sample testing is not acceptable)
- Emergency Generator: Witness and provide a report for the load bank testing. Include fuel oil transfer pump testing as required.
- 100% Fire Damper/Smoke damper testing: with the contractor, test all fire and smoke dampers. Provide documentation. Test to be performed prior to Fire Marshal Life Safety Testing.

Submittal Requirements

To facilitate comparison of SOQs, each page of the SOQ should state the name of the firm, the RFQ number (RFQ #21-023), and the page number and should be submitted in a format that corresponds to the order below.

ALL FIRMS INTERESTED MUST SUBMIT THE FOLLOWING INFORMATION:

- A. RFQ Cover Sheet – signed by an officer of your company.
- B. A description of your firm's process for analyzing existing parking lots, MEP systems, and lighting layouts and making recommendations for improvement.
- C. A statement as to the firm's particular abilities and qualifications, including the number of years the firm has been in business, the geographical area of operations, and professional affiliations. Also indicate the principals in the organization and the size and composition of the organization.
- D. Provide the name of all team members who would be assigned to CML's projects from beginning to end and their role as a member of the project team. Include a brief description of certifications, skills, and abilities of each team member.

- E. Provide information that demonstrates experience in and knowledge of local codes, including all applicable rules and regulations related to the City of Columbus, Franklin County, and the State of Ohio as it applies to landscaping.
- F. Provide a portfolio and/or digital resume of the proposed team's recent work.
- G. Describe the firm's approach and methodology related to progress meetings and presentations to the Library's key stakeholders.
- H. Describe your firm's ability to collaborate with CML staff and other design professionals. If possible, provide examples of your prior experience that demonstrate your approach to collaborations.
- I. Describe any special equipment, software, or procedures available to the firm which will facilitate the completion of the project.
- J. Include any other information documentation believed to be pertinent, but not specifically mentioned in this RFQ, which may be useful and applicable to the library.
- K. Disclose all information concerning any lawsuits, judgments, liens or claims made against the firm within five (5) years of the SOQ submission date that are related to the services outlined in this document.
- L. Disclose all declarations of default or termination for cause against the firm with respect to such services, suspension from submitting proposals for or entering into any government contract within five (5) years of the SOQ submission date.
- M. Proposed Modifications to Agreement Terms – The "Terms and Conditions" for all projects pursuant to this RFQ are attached hereto. If your firm would like to propose any deviation from such terms, you must identify those terms and submit your proposed modified language in detail in your statement of qualifications in a section clearly titled "Proposed Modification to Terms and Conditions". Failure to do so shall be deemed to be a waiver of the right to negotiate the terms. Modifications may be accepted at the Owner's sole discretion and may be taken into account by the Owner when ranking the most-qualified firms. The Owner reserves the right to modify the form of Terms and Conditions as well as any terms.

Diversity

Because Columbus Metropolitan Library serves a diverse central Ohio population, CML has a strong preference for professional service providers to make good faith efforts to propose teams made up of MBE/WBE certified staff to provide CML with a diverse professional staff representative of the central Ohio region in which they will be working and of the customers that CML serves every day. Minority and Women Business Enterprises are encouraged to respond to this RFQ.

Evaluation of Qualifications

The Library's evaluation team, consisting of selected members of various work units, will evaluate responses received to the RFQ and select firms to be included on our pre-qualified list.

Specific criteria that will be considered during the evaluation include:

- Evidence of site and systems design and technical excellence/innovation
- Public/Civic/Library design experience
- Team qualifications, references and demonstrated capacity to implement and complete
- Approach to collaboration with Library staff and other design professionals
- Quality of the SOQ, including adherence to instructions
- References
- Proposed modifications to the Terms and Conditions

Engineering firms that are serving as the design firms on a specific project are disqualified from offering enhanced commissioning services on the same project.

The Library reserves the right to waive irregularities in any SOQ submission, to request additional information from any firm that submits its qualifications and an SOQ for consideration, and to reject any or all submittals. The submission of a firm's qualifications does not result in any right to be included in the prequalified file of design professionals if the Library's selection team determines that the firm is not qualified to provide design services.

Qualification Process

1. The complete RFQ will be e-mailed to firms identified by the Library to be included on the distribution list and to anyone requesting a copy. In addition, the notice of the RFQ will be announced on the State of Ohio Office of Procurement Services Website and the Library's website (at minimum).
2. The selection team will review all SOQs, identifying firms that meet the minimum qualifications, and create a list of pre-qualified firms. Each firm submitting an SOQ will be notified of its qualification status.
3. The library reserves the right to conduct interviews with select firms during the qualification process.
4. All qualified firms, including both those selected and not selected for any project, will remain on the prequalified list of architectural & engineering firms capable of providing services during the term identified in this RFQ. Any firm selected to be included on the prequalified list must update its qualifications annually to remain on the list.

Firm Selection Process

Qualified firms will be selected on a per-project basis. Projects are anticipated to start between 2021-2024. Qualified firms will be ranked per project at the time when the Library is ready to begin the project. The Library will notify the top-ranked firm to discuss availability to complete the work, verify scope of work, and negotiate a fee proposal. If the top-ranked firm is not available to complete the work or the fee proposal is not acceptable to the Library, the Library will go to the next ranked firm.

SCHEDULE

12/09/2021	RFQ notifications e-mailed to the distribution list, posted on the State of Ohio Office of Procurement Services and Library Websites
12/22/2021	RFQ due by 12:00 PM
01/2022	Notification of pre-qualified status

Each firm must submit an SOQ email marked:

**ENHANCED COMMISSIONING
RFQ# 21-023**

SOQs are due no later than **12/22/2021 at 12:00PM EST.**

Proposals must be submitted to procurement@columbuslibrary.org

CONTACT INFORMATION:

Every effort has been made to include enough information within this RFQ to enable firms to prepare a response that thoroughly and fairly represents their respective capabilities to meet the Library's requirements. If there are questions concerning the contents of this document, the Library is willing to provide responses in as timely a manner as possible.

Submit all questions and inquiries via e-mail to:

Theresa Kauffman-Bidwell, IT Vendor and Procurement Administrator

Email address: procurement@columbuslibrary.org

Columbus Metropolitan Library
Procurement Department

Standard Contract Terms and Conditions

Contract Components, Entirety, Changes Interpretation

Contract Components: This contract consists of this document, the Standard Contract Terms and Conditions, the Special Contract Terms and Conditions (if any), the specifications or scope of work (SOW), and any written amendments to this document, valid Columbus Metropolitan Library (CML) purchase orders or other ordering documents (together referred to as the "Contract").

Entire Agreement; Parties to the Contract: This contract is the entire agreement between the individual or entity selected to provide equipment, supplies and/or services on the basis of a SOW submitted to CML in response to a request (referred to as the Contractor in these Terms and Conditions) and Columbus Metropolitan Library (CML).

Contract Changes: Waivers, Changes or Modifications to this Contract must be made in writing and signed by both parties. If a party to this Contract does not demand strict performance of any item of this Contract, the party has not waived or relinquished any of its rights; the party may at any later time demand strict and complete performance of the term.

Contract Orders: CML will order supplies or services under this Contract from the Contractor directly. The Contractor may receive purchase orders by telephone, facsimile, electronically or in person by authorized employees of CML. The Contractor is not required to fill an order date more than 30 days beyond the date of Contract expiration, termination or cancellation, unless the Contract provides for a quarterly delivery or quarterly service. Under a Contract that provides for quarterly delivery, the Contractor is not required to fill an order with a delivery date of more than 90 days beyond the date of Contract expiration, termination or cancellation.

Standard Invoice and Payment

Invoice: The Contractor shall submit invoices to accountspayable@columbuslibrary.org. The invoice must be a proper invoice to receive consideration for payment. A "proper Invoice" is defined as being free of defects, discrepancies, errors or other improprieties. Improper invoices will be returned to the Contractor noting the areas of discrepancy.

Payment: In consideration for the Contractor's performance, CML will pay the Contractor at the rate specified in the contract. *Payments will be made by electronic funds transfer (EFT).* For all transactions, the Contractor must have a valid W9 form on file with the Finance Department.

The completed form should be mailed to: Finance Department, Columbus Metropolitan Library, 96 South Grant Avenue, Columbus, Ohio 43215.

Payment Due Date: CML will pay invoices 30 days after it has received an invoice for supplies and services it has received and accepted, unless otherwise indicated herein.

Taxes: Columbus Metropolitan Library is exempt for all federal, state and local taxes as CML is part of Franklin County Government and has a 501 nonprofit status.

Term of Contract: This contract is effective upon the projected beginning date of the Contract Cover Page or upon signature of CML by the Fiscal Officer, whichever comes later in time. This Contract will remain in effect until the Contract is fully performed by both parties or cancelled in accordance with the Terms found herein.

Contract Renewal: This contract may be renewed solely at the discretion of CML for a period of one month. Any further renewals will be by agreement of both parties, any number of times for any period of time. The cumulative time of all renewals may not exceed two years.

Delivery

F.O. B. The Place of Destination: The Contractor must provide the supplies or services under this Contract F.O.B., the place of delivery/destination, unless otherwise stated. The address of delivery will be specified by the purchase order or other ordering document. Freight will be prepaid unless otherwise stated.

Time of Delivery: If the Contractor is not able to deliver the supplies or services on the date and time specified by CML ordering department on the ordering document, the Contractor must coordinate an acceptable date and time for delivery. If the Contractor is not able to, or does not, provide the supplies or services to an ordering department by the time and date agreed upon, CML may obtain any remedy provided below or any other remedy at law.

Minimum Orders-Transportation Charges: For purchase orders placed that are less than the stated minimum order, the transportation will be prepaid and added to the invoice by the Contractor to the delivery location designated in the ordering documents. Shipment is to be made by private or commercial freight service, airmail, water, parcel post, express or commercial package delivery, whichever is the most economical and expeditious method for proper delivery of the item. Failure of the Contractor to utilize the most economical mode of transportation shall result in the Contractor reimbursing CML the difference between the most economical mode of transportation and the mode of transportation used by the contractor. Failure to reimburse CML shall be considered a default.

Contract Cancellation; Termination; Remedies

Contract Cancellation: If a Contractor fails to perform any one of its obligations under this Contract, it will be in default, and CML may cancel this Contract in accordance with this section. The cancellation will be effective on the date delineated by CML.

- A. **Contract Performance is Substantially Endangered:** If the Contractor's default is substantial and cannot be cured within a reasonable time, or if CML determines that the performance of the contract is substantially endangered through no fault of CML, CML may cancel this Contract by written notice to the Contractor.
- B. **Cancellation by Unremedied Default:** If a Contractor's default may be cured with a reasonable time, CML will provide written notice to the Contractor specifying the default and the time within which the Contractor must correct the default. If Contractor fails to cure its default in the time required, CML may cancel this Contract by providing written notice to the Contractor. If CML does not give timely notice of default to Contractor, CML has not waived any of its rights or remedies concerning the default.
- C. **Cancellation by Persistent Default:** CML may cancel this Contract by written notice to Contractor for defaults that are cured but persistent. "Persistent" means three or more defaults. After CML has notified Contractor of its third default, CML may cancel this Contract without providing Contractor with an opportunity to cure, if the Contractor defaults a fourth time. CML shall provide written notice of the termination to the Contractor.
- D. **Cancellation for Financial Instability:** CML may cancel this Contract by written notice if Contractor does not pay its subcontractors and material suppliers within 10 days of payment to the Contractor by CML. To the extent permitted by law, CML may cancel this Contract by written notice to Contractor if a petition in bankruptcy or similar proceedings has been filed by or against the Contractor.

Contract Termination: CML may terminate this Contract for convenience after issuing 30 days written notice to the Contractor.

Remedies for Default:

- A. **Actual Damages.** The Contractor is liable to CML for all actual and direct damages caused by the Contractor's default. CML may buy substitute supplies or services, from a third party, for those that were to be provided by the Contractor, and CML may recover the costs associated with acquiring substitute supplies or service, less any expenses or costs saved by the Contractor's default, from the Contractor.

- B. Deduction of Damages for Contract Price. CML may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the Contract, after CML has provided prior written notice to Contractor of such default and intent to deduct damages from the Contract Price.

Force Majeure: If CML or Contractor is unable to perform any part of its obligation under this Contract by reason of force majeure, the party is excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: Acts of God, such as epidemics, lightning, earthquakes, fires, storms, hurricanes, tornadoes, floods, washouts, droughts, and any other severe weather; explosions; arrests; restraint of government and people; strikes; and any other like events or any other cause that could not be reasonable foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

CML Consent to Assign or Delegate: The Contractor may not assign any of its rights under this contract unless CML consents to the assignment or delegation in writing. Any purported assignment or delegation made without CML's written consent is void.

Indemnification: Contractor will indemnify CML, its employees, members of the Board of Trustees, and its Officers and administrators for any and all claims, damages, lawsuits, costs, judgments, expenses, liabilities that may arise out of, or are related to, the Contractor's performance under this Contract, including the performance by Contractor's employees and agents and any individual or entity for which the Contractor is responsible.

Confidentiality: Contractor may learn of information, documents, data, records and other material that is confidential in the performance of this Contract. Contractor may not disclose any information obtained by it as a result of the Contract without written permission from CML. Contractor must assume that all CML information, documents, data, records or other material is confidential.

Publicity: Contractor and any of its subcontractors may not use or refer to this Contract to promote or solicit Contractor's or subcontractor's supplies or services. Contractor and its subcontractors may not disseminate information regarding this Contract, unless agreed to in writing by CML.

Governing Laws; Severability: The Laws of the State of Ohio govern this Contract, and venue for any dispute will be exclusively with the appropriate court of competent jurisdiction in Franklin County, Ohio. If any provision of the Contract or the application of any provision is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract will remain in full force and effect to the extent that the remaining provisions continue to make sense.

Workers Compensation: The Contractor shall carry Workers' Compensation Liability Insurance as required by Ohio law for any work to be performed within the State of Ohio. Failure to maintain Workers Compensation Liability Insurance for the duration of the contract and any renewal hereto will be considered a default.

Automobile and General Liability Requirements: During the term of the Contract and any renewal hereto, the Contractor, and any agent of the Contractor, at its sole cost and expense, shall maintain a policy of automobile liability and commercial general liability insurance as described in this clause. Copies of the respective insurance certificates shall be filed with the Procurement Department within seven (7) calendar days after notification by the CML of its selection of the Contractor to provide the specified supplies and/or services. Failure to submit the insurance certificates within the time period may result in the Contractor being considered in default. Said certificates are subject to the approval of the CML Procurement Manager and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the Procurement Manager. Failure of the Contractor to maintain this coverage for the duration of the Contract, and any renewals, thereto may be considered a default.

Automobile Liability: Automobile Insurance is required for anyone coming onto CML branches and/or property to deliver goods or perform services using a vehicle, which is owned, leased, hired, or rented by the Contractor. Any Contractor, broker, or subcontractor who will be on CML property, but not delivering goods or performing

services, is required to carry Automobile Liability Insurance that complies with the state and federal laws regarding financial responsibility. Automobile liability insurance, including hired, owned, and non-owned vehicles used in connection with the Work, shall have a combined single limit coverage covering personal injury, bodily injury (including death) and property damage of not less than \$2,000,000 per accident.

Commercial General Liability: Insurance coverage with a \$2,000,000 annual aggregate and a \$1,000,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate CML as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation. The certificate shall be endorsed to reflect a per project/per location General Aggregate limit of \$2,000,000. If the Contractor uses an umbrella/excess policy to meet the required limits, it is understood that the policy shall follow from per project/per location basis. It is agreed upon that the Contractor's commercial general liability insurance shall be primary over any other coverage. The Procurement Department reserves the right to approve all policy deductibles and levels of self-insurance retention.

Contract Compliance: The participating CML branches and departments will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. If a branch or department observes any infraction such shall be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the infraction, the department/branch will notify the Procurement Department in order to resolve the issues. These terms and conditions will be used by the Procurement Department to resolve the issues.

Warranties: Unless otherwise stated, all supplies shall be new and unused. All products shall carry manufacturer's warranties in addition to implied warranties. The Contractor warrants all supplies to be free from defects in labor, material, and workmanship (manufacturing) and be in compliance with the contract specifications.

ADDITIONAL TERMS:

1. This Contract represents the entire agreement of the parties hereto, and may not be amended except in writing signed by both parties.
2. All times referenced herein are Columbus, Ohio local times.
3. *CML is not responsible for any work or services provided by Contractor prior to the issuance of a P.O. by CML.*
4. Contractor will supply its own tools and materials.
5. Contractor will make arrangements for EFT (electronic funds transfer).
6. A completed W9 form is required on file with CML prior to CML issuing payment for services provided by Contractor. The W9 form can be found at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. Please fill out the form and return with the signed contract to the Procurement Department of the Columbus Metropolitan Library at 96 S. Grant Avenue, Columbus, OH 43215 or email: procurement@columbuslibrary.org.

Columbus Metropolitan Library
Standard Contract Terms and Conditions

Contract Components, Entirety, Changes Interpretation

Contract Components: This contract consists of the complete Invitation to Bid (ITB), including the Instructions and Interpretations to Bidder, the Contract Terms and Conditions, the Special Contract Terms and Conditions (if any), the specifications, and any written addenda to the ITB; the completed sealed written Bid, including proper modifications, clarifications and samples; and applicable, valid Columbus Metropolitan Library (CML) purchase orders or other ordering documents (together referred to as the "Contract"). The terms solicitation and Invitation to Bid (ITB) have similar meaning and are used interchangeably, where appropriate.

Entire Agreement; Parties to the Contract: This contract is the entire agreement between the individual or entity selected to provide equipment, supplies and/or services on the basis of a Bid submitted to CML in response to an ITB (referred to as the "Supplier" or the "Contractor" in these Terms and Conditions) and Columbus Metropolitan Library (CML). References to "Vendor" in any of the contract components are deemed to refer to the Supplier or Contractor selected to provide the specified equipment, supplies and/or services that are the subject of the Contract.

Contract Changes: Waivers, Changes or Modifications to this Contract must be made in writing and signed by both parties. If a party to this Contract does not demand strict performance of any item of this Contract, the party has not waived or relinquished any of its rights; the party may at any later time demand strict and complete performance of the term.

Contract Orders: CML will order products, supplies or services under this Contract from the Supplier directly. The Supplier may receive purchase orders by telephone, facsimile, electronically or in person by authorized employees of CML.

Subcontracting: The Contractor may not enter into subcontracts for the Work after award without written approval from CML. The Contractor will not need CML's written approval to subcontract for the purchase of commercial goods that are required for satisfactory completion of the Work. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the Contract.

CML's approval of the use of subcontractors does not mean that CML will pay for them. The Contractor will be solely responsible for payment of its subcontractor and any claims of subcontractors for any failure of the Contractor or any of its other subcontractors to meet the performance schedule or performance specifications for the Project in a timely and professional manner. The Contractor will hold CML harmless for and will indemnify CML against any such claims.

The Contractor will assume responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, CML will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. The Contractor will be fully responsible for any default by a subcontractor, just as if the Contractor itself had defaulted.

If the Contractor uses any subcontractors, each subcontractor must have a written agreement with the Contractor. That written agreement must incorporate this Contract by reference. The agreement must also pass through to the subcontractor all provisions of this Contract that would be fully effective only if they bind both the subcontractor and the Contractor. Among such provisions are the limitations on the Contractor's remedies, the insurance requirements, record-keeping obligations, and audit rights. Some sections of this Contract may limit the need to pass through their requirements to subcontracts to avoid placing cumbersome obligations on minor subcontractors. This exception is applicable only to sections that expressly provide exclusions for small-dollar subcontracts. Should the Contractor fail to pass through any provisions of this Contract to one of its subcontractors and the failure damages CML in any way, the Contractor will indemnify CML for the damage.

Standard Invoice and Payment

Invoice: The Contractor shall submit invoices to Accounts Payable, Finance Department via the following e-mail address: accountspayable@columbuslibrary.org . The invoice must be a proper invoice to receive consideration for payment. A "proper Invoice" is defined as being free of defects, discrepancies, errors or other improprieties. Improper invoices will be returned to the Supplier noting the areas of discrepancy.

Payment: In consideration for the Supplier's performance, CML will pay the Supplier as invoiced. *Payments will be made by electronic funds transfer (EFT)*. For all transactions, the Supplier must have a valid W-9 form on file with the Finance Department. The completed form should be included with the Bid or mailed to: Finance Department, Columbus Metropolitan Library, 96 South Grant Avenue, Columbus, Ohio 43215.

Payment Due Date: CML will pay invoices 30 days after it has received an invoice for products, supplies and services it has received and accepted.

Taxes: Columbus Metropolitan Library is exempt from all federal, state and local taxes as CML is part of Franklin County Government and has a 501 nonprofit status.

Term of Contract: This Contract is effective on the date it is fully-executed and will continue until the Project is completed, unless canceled in accordance with the Terms found herein.

Contract Renewal: This Contract may be renewed solely at the discretion of CML for a period of one month. Any further renewals will be by mutual agreement of both parties, as stated herein. The cumulative time of all renewals may not exceed two (2) years.

Delivery

F.O.B. The Place of Destination: Where applicable, the Supplier must provide the products, supplies or services under this Contract F.O.B., the place of delivery/destination, unless otherwise stated. The address of delivery will be specified by the purchase order or other ordering document. Freight will be prepaid and included, unless otherwise stated.

Time of Delivery: [Not required]

Minimum Orders-Transportation Charges: [Not required]

Contract Cancellation; Termination; Remedies

Contract Cancellation: If a Supplier fails to perform any one of its obligations under this Contract, it will be in default, and CML may cancel this Contract in accordance with this section. The cancellation will be effective on the date delineated by CML.

- A. **Contract Performance is Substantially Endangered:** If the Supplier's default is substantial and cannot be cured within a reasonable time, or if CML determines that the performance of the contract is substantially endangered through no fault of CML, CML may cancel this Contract by written notice to the Supplier.
- B. **Cancellation by Remedied Default:** If a Supplier's default may be cured with a reasonable time, CML will provide written notice to the Supplier specifying the default and the time within which the Supplier must correct the default. If Supplier fails to cure its default in the time required, CML may cancel this Contract by providing written notice to the Supplier. If CML does not give timely notice of default to Supplier, CML has not waived any of its rights or remedies concerning the default.
- C. **Cancellation by Persistent Default:** CML may cancel this Contract by written notice to Supplier for defaults that are cured but persistent. "Persistent" means three or more defaults. After CML has notified Supplier of its third default, CML may cancel this Contract without providing Supplier with an opportunity to cure, if the Supplier defaults a fourth time. CML shall provide written notice of the termination to the Supplier.
- D. **Cancellation for Financial Instability:** To the extent permitted by law, CML may cancel this Contract by written notice to Supplier if a petition in bankruptcy or similar proceedings has been filed by or against the Supplier.

Contract Termination: CML may terminate this Contract for convenience after issuing 30 days written notice to the Supplier.

Remedies for Default:

- A. **Actual Damages.** The Supplier is liable to CML for all actual and direct damages caused by the Supplier's default. CML may buy substitute supplies or services, from a third party, for those that were to be provided by the Supplier, and CML may recover the costs associated with acquiring substitute supplies or service, less any expenses or costs saved by the Supplier's default, from the Supplier.
- B. **Deduction of Damages for Contract Price.** CML may deduct all or any part of the damages resulting from Supplier's default from any part of the price still due on the Contract, after CML has provided prior written notice to Supplier of such default and intent to deduct damages from the Contract Price.

Force Majeure: If CML or Supplier is unable to perform any part of its obligation under this Contract by reason of force majeure, the party is excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: Acts of God, such as epidemics, lightning, earthquakes, fires, storms, hurricanes, tornadoes, floods, washouts,

droughts, and any other severe weather; explosions; arrests; restraint of government and people; strikes; and any other like events or any other cause that could not be reasonable foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

CML Consent to Assign or Delegate. The Supplier may not assign any of its rights under this contract unless CML consents to the assignment or delegation in writing. Any purported assignment or delegation made without CML's written consent is void.

Indemnification: Supplier will indemnify CML, its employees, members of the Board of Trustees, and its Officers and administrators for any and all claims, damages, lawsuits, costs, judgments, expenses, liabilities that may arise out of, or are related to, the Supplier's performance under this Contract, including the performance by Supplier's employees and agents and any individual or entity for which the Supplier is responsible.

Confidentiality: Supplier may learn of information, documents, data, records and other material that is confidential in the performance of this Contract. Supplier may not disclose any information obtained by it as a result of the Contract without written permission from CML. Supplier must assume that all CML information, documents, data, records or other material are confidential.

Publicity: Supplier and any of its subcontractors may not use or refer to this Contract to promote or solicit Supplier's or subcontractor's supplies or services. Supplier and its subcontractors may not disseminate information regarding this Contract, unless agreed to in writing by CML.

Governing Laws; Severability: The Laws of the State of Ohio govern this Contract, and venue for any dispute will be exclusively with the appropriate court of competent jurisdiction in Franklin County, Ohio. If any provision of the Contract or the application of any provision is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract will remain in full force and effect to the extent that the remaining provisions continue to make sense.

Workers Compensation: The Supplier shall carry Workers' Compensation Liability Insurance as required by Ohio law for any work to be performed within the State of Ohio. Failure to maintain Workers Compensation Liability Insurance for the duration of the contract and any renewal hereto will be considered a default.

Automobile and General Liability Requirements: During the term of the Contract and any renewal hereto, the Supplier, and any agent of the Supplier, at its sole cost and expense, shall maintain a policy of automobile liability and commercial general liability insurance as described in this clause. Copies of the respective insurance certificates shall be filed with the Procurement Department within seven (7) calendar days after notification by the CML of its selection of the Supplier to provide the specified supplies and/or services. Failure to submit the insurance certificates within the time period will result in the Bidder's Bid not being considered. Said certificates are subject to the approval of the CML Procurement Manager and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the Procurement Manager. Failure of the Supplier to maintain this coverage for the duration of the Contract, and any renewals, thereto may be considered a default.

Automobile Liability: Automobile Insurance is required for anyone coming onto CML branches and/or property to deliver goods or perform services using a vehicle, which is owned, leased, hired, or rented by the Supplier. Any Supplier, broker, or subcontractor who will be on CML property, but not delivering goods or performing services, is required to carry Automobile Liability Insurance that complies with the state and federal laws regarding financial responsibility. Automobile liability insurance, including hired, owned, and non-owned vehicles used in connection with the Work, shall have a combined single limit coverage covering personal injury, bodily injury (including death) and property damage of not less than \$2,000,000 per accident.

Commercial General Liability: The Supplier shall maintain insurance coverage with a \$2,000,000 annual aggregate and a \$1,000,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate CML as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation. The certificate shall be endorsed to reflect a per project/per location General Aggregate limit of \$2,000,000. If the Supplier uses an umbrella/excess policy to meet the required limits, it is understood that the policy shall follow from per project/per location basis. It is agreed upon that the Supplier's commercial general liability insurance shall be primary over any other coverage. The Procurement Department reserves the right to approve all policy deductibles and levels of self-insurance retention.

Contract Compliance: The participating CML branches and departments will be responsible for the administration of the Contract and will monitor the Supplier's performance and compliance with the terms, conditions and specifications of the Contract. If a branch or department observes any infraction such shall be documented and conveyed to the Supplier for immediate correction. If the Supplier fails to rectify the infraction, the department/branch will notify the Procurement Department in order to resolve the issues. These terms and conditions will be used by the Procurement Department to resolve the issues.

Warranties: Unless otherwise stated, all supplies shall be new and unused. All products shall carry manufacturer's warranties in addition to implied warranties. The Supplier warrants all supplies to be free from defects in labor, material, and workmanship (manufacturing) and comply with the contract specifications.

ADDITIONAL TERMS:

1. This Contract represents the entire agreement of the parties hereto, and may not be amended except in writing signed by both parties.
2. All times reference herein are Columbus, Ohio local times.
3. CML is not responsible for any work or services provided by Contractor prior to the issuance of a P.O. by CML.
4. Contractor will supply its own tools and materials.
5. Contractor will make arrangements for EFT (electronic funds transfer).
6. A completed W9 form is required on file with CML prior to CML issuing payment for services provided by Contractor. The W9 form can be found at:
<http://www.irs.gov/pub/irspdf/fw9.pdf>. Please fill out the form and return with the

signed contract to the Procurement Department of the Columbus Metropolitan Library at 96 S. Grant Avenue, Columbus, OH 43215 or e-mail: procurement@columbuslibrary.org.