

**CONTRA COSTA COUNTY
"CCC TERMS & CONDITIONS"**

ATTACHMENT TO PURCHASE ORDER

The following general terms and conditions are to be incorporated into and will become a part of this contractual agreement hereafter referred to as "Contract" between Supplier/Vendor/Contractor, hereafter referred to as "Supplier," and Contra Costa County, hereafter referred to as "County."

- I. Agreement. "TERMS AND CONDITIONS" stated in this document, plus shall apply to this "Contract" between the "Supplier" and "County." Any other terms and conditions must be in writing and agreed to by the County. Upon acceptance of this Purchase Order the "Supplier" agrees to abide by these terms and conditions. This "Contract" is binding on the heirs, successors, assigns, and representatives of the "Supplier."
- II. Transaction Fees. The Two Percent fee charged to vendors has been dropped for bids solicited by the County of Contra Costa. The County of Contra Costa is now paying this fee for their vendors, on all bids ending after July 1st, 2007.
- III. Modifications and Amendments. This Contract may be modified or amended upon mutual agreement between County and Supplier by written document subject to any required County, State, or Federal approval.
- IV. Year 2000 Compliance. Supplier warrants and represents to the County that all software/firmware/hardware/equipment/and systems distributed, installed, or programmed by Supplier pursuant to this Contract/ Agreement is Year 2000 compliant:
 - a. All software/firmware/hardware/equipment/and systems distributed, installed, or programmed by Supplier to be used prior to, during and after the calendar year 2000 AD; will operate consistently, predictably, and accurately, without interruption or manual intervention, and in accordance with all requirements of this Contract, including without limitation all specification and/or functionality and performance requirements, during each such time period, and transitions between them, in relation to dates it encounters or processes.
 - b. That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data during Leap Years.
 - c. That all date sorting by software/firmware/hardware/equipment/equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by County of the failure of any software/firmware/hardware/equipment/systems to comply with this Contract/Agreement, Supplier/Contractor will within sixty (60) days and at no cost to County, replace or correct the non-complying software/firmware/hardware/equipment/systems with software/firmware/hardware/equipment/systems that does comply with this Contract.

Other systems: To the extent that the software/firmware/hardware/equipment/systems, distributed, installed, or programmed will accept data from other systems and sources that are not Year 2000 Compliant, the software/firmware/hardware/equipment/systems distributed, installed, or programmed must properly recognize, calculate, sort, store, output, and otherwise process such data in a manner that eliminates any century ambiguity so that the software/hardware/equipment/systems remains Year 2000 compliant.

No disclaimers: The warranties set forth in above shall not be subject to any disclaimer or exclusion of warranties or to any limitation of Licensor's liability under this Contract.

- V. Compliance with Law. Supplier shall be subject to and comply with all Federal, State, County, and local and regulations with respect to its performance under this contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment and nondiscrimination. Subject to, but not limited to, the Fair labor Standards Act of 1938 as amended; Executive orders and rules and regulations of the President's Committee on Equal Employment Opportunity; and the California Occupational Safety and Health Act of 1973.
- VI. Disputes. Disagreements between the Supplier and the County concerning the meaning, requirement, or performance of this Contract shall be subject to final determination in writing by the County's General Services Department, Purchasing Division. In the event of a dispute the vendor will need to present their issue in writing to the County Purchasing Manager who will investigate the matter and render a final decision. This is the only dispute process that exists in Contra Costa County for disputes that arise from County's prescribed bid process, any decision arising out of any dispute submittal, The decision of the County Purchasing Manager is final.
- VII. Conflicts of Interest. Supplier, its officers, partners, associates, agents, and employees, shall not make, participate in making, or in any way attempt to use the position afforded them by this Contract to influence any governmental decision in which he or she knows or has reason to know that he or she has a financial interest under California Government Code Section 87100, et seq., or otherwise.
 - a. Gratuities: It is unethical for any person to offer, give, or agree to give any employee or for any employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, audit, or in any other advisory capacity in any proceeding or application, request for ruling, determination claim or controversy, or other particular matter, pertaining to any program requirement or an Agreement or subcontract, or to any solicitation or proposal therefore.
 - b. Kickbacks: It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Sub-contractor under a Contract to Contractor or higher tier sub-contractor any person associated therewith, as an inducement of the award of a subcontract or order.

- VIII. Indemnify. The Supplier agrees to indemnify and hold harmless the County, its officers, agents, and employees against all claims, demands, and judgments made or recovered against the County for damages to real, tangible, or personal property, including injury or death, in connection with this Contract to the extent such damage, injury, or death was caused by negligence, intentional, or willful misconduct of Supplier during the operations in connections with the performance of work or duties undertaken as a result of the acceptance of this Contract.
- IX. Choice of Law and Personal Jurisdiction. This Contract is made in the County of Contra Costa and shall be governed and construed in accordance with the laws of the State of California. Any action relating to this Contract shall be instituted and prosecuted in the courts of the County of Contra Costa, State of California.
- X. Endorsements. Supplier shall not in its capacity as a Supplier with the County publicly endorse or oppose the use of, or attribute qualities or lack of qualities of, any particular brand name or commercial product / service without the prior approval of the County's Board of Supervisors. In its County Supplier capacity, Supplier shall not participate or appear in any commercially produced advertisements designed to promote a brand name or commercial product/service. Notwithstanding the foregoing Supplier may express its views on products/services to other Suppliers, County officers, Board of Supervisors, and others who may be authorized by the County or by law to receive such views relating to this contract shall be instituted and prosecuted in the courts of the County of Contra Costa, State of California.
- XI. Inspection. Supplier's performance, place of business, and records pertaining to this contract are subject to monitoring, inspection, review, and audit by authorized representatives of the County, State of California, and Federal Government.
- a. Supplier shall keep and make available for inspection and copying by authorized representatives of the County, State of California, and Federal Government, the Supplier's regular business records and such additional records pertaining to this Contract as may be required by the County.
- b. Retention of Records. The Supplier shall retain all documents pertaining to this Contract for five (5) years from the Contract ending date and for any further period that is required by law.
- XII. Quantities. The County guarantees no minimum or maximum quantities of products or units of service to be ordered during the contract period stated on the Blanket Purchase Order. The County will not accept minimum usage requirements.
- XIII. Award. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the County relative to price, quality, and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for the bid/offer to be evaluated by the County. When it is in the County's interest to do so, any bid/offer may be rejected.

- XIV. Competition intended: The County's purpose in placing this RFP is to maximize competition relative to the solicitation. Unless otherwise stated, brand name(s), trade name(s), manufacturer's name(s), or catalog number(s) listed in the RFP are used for the purpose of description and to establish a base level of quality. Any item offered, which contains components of equal or better quality, will receive consideration for award. Bidders are required to list any and all deviations from the bid specifications. The County reserves the right to reject any item(s) listing deviations which it considers to be of less quality and/or which may change to overall intent of the bid specifications and/or is not considered to be in the County's best interest. If a bidder fails to indicate brand name(s), the County will consider the bidder to be offering the brand name(s) that are listed in the RFP. Bidders will not be permitted to change or alter brand name(s), after opening of the RFP, without express written approval of County. After award of a contract, the bidder will be required to furnish the listed brand name(s) and failure to do so will be deemed as a default.
- XV. Method of Ordering. A Blanket Purchase Order will be issued for products/services identifying the User Department. A single User Department may have more than one ship to address. If more than one User Department will order the Supplier's products/services each User Department will have their own Blanket Purchase Order number.
- XVI. Termination:
- a. Written Notice. This Contract may be terminated by either party, at their sole discretion, upon thirty-day (30) advance written notice thereof to the other and may be cancelled immediately by written mutual consent.
 - b. Failure to Perform. The County, upon written notice to Supplier, may immediately terminate this Contract should the Supplier fail to perform properly any of its obligations hereunder.
 - c. Cessation of Funding. In the event that Federal, State, County, Grant funding for this Contract ceases, this Contract is terminated immediately without notice and without penalty to the County. In the event no funds or insufficient funds are appropriated and budgeted in any Fiscal Year for payments due under this Contract for the then current or the succeeding Fiscal Year during the term, aforesaid, this Contract shall create no obligation on the County as to such current or succeeding Fiscal Year except as to the portions of payment herein agreed upon for which funds shall have been appropriated and budgeted, and no right of action or damages shall accrue to the benefit of Supplier, its successors, and assigns, as to that portion of this Contract which may so become unenforceable.
- XVII. Non-Renewal & Extension.
- a. Supplier understands and agrees that there is no representation, implication, or understanding that the products/services provided by the Supplier will be purchased by the County under a new Contract following expiration or termination of this Contract.
 - b. By mutual agreement, and agreed upon pricing, this Contract may be extended past the ending date.

XVIII. Insurance. (If Applicable) If Supplier's personnel or representatives will be coming onto County property to perform work/services the Supplier shall be required to present to: Contra Costa County Purchasing Division, 1220 Morello Avenue, Suite 210, Martinez, CA 94553, written evidence of insurance before beginning work/services.

XIX. Contracts: (If Applicable)

- a. Contractor's License: Supplier shall possess license(s) required in the bid at the time this contract is awarded (PCC3300).
 - b. Payment Bond: Supplier shall provide a Payment Bond for public works projects, when project is in excess of \$25,000 (CC3247).
 - c. Prevailing Wages: For public works projects greater than \$1000, the Supplier shall pay the general prevailing rate of per diem wages to all workers employed on contracted project as established by the California Department of Industrial Relations (PCC1770-1780).
 - d. Certified Payroll Reports: Supplier shall be required to maintain and furnish upon request, a certified copy of each weekly payroll containing a signed statement of compliance (PCC1771.5(b)(3)).
1. Invoice each Purchase Order separately. Items on this Purchase Order must not be billed with those of other Purchase Orders.
 2. Substitutions, changes, and prices other than specified above must be authorized in writing by the Purchasing Agent.
 3. Acceptance of Purchase Order implies the acceptance of all terms and conditions contained herein, and all specifications, drawings and additional terms and conditions referred to herein and/or attached hereto. Read them carefully. No substitutions or changes will be effective without County written approval.
 4. This order or any payment due hereunder is not assignable by Supplier without written approval of County.
 5. CONTRACT: This purchase order, and any referenced attachments, when accepted by Supplier either in writing or shipment of all or any portion of the material, or the commencement of performance of any portion of the services covered hereunder, constitutes the entire contract between Supplier and County concerning its subject matter; and neither any contrary or additional conditions specified by Supplier nor any subsequent amendment or supplement shall have any effect without County's written approval.
 6. WARRANTY AND QUALITY INSPECTION; Supplier warrants that all articles, materials and work furnished shall be good quality and free from defects, shall conform to drawings and/or specifications and shall be merchantable quality and fit for the purpose for which purchased, and shall be at all times subject to County's inspection; but neither County's inspection nor failure to inspect shall relieve Supplier of any obligation hereunder. If, in County's opinion, any article, material or work fails to conform to specifications or is otherwise defective, Supplier shall promptly replace same at Supplier's expense. No acceptance or payment by County shall constitute a waiver of the foregoing, and nothing herein shall exclude or limit any warranties implied by law.

7. TAXES: Unless otherwise provided herein or by law, Supplier shall pay all sales, use excise (except those articles exempt from Federal Excise Taxes stated on the face hereof), and other taxes, charges and contributions now or hereafter imposed on, or with respect to or measured by the compensation paid to persons employed in connection with performance hereunder; and Supplier shall indemnify County against any liability and expense by reason of Supplier's failure to pay same.
8. Additional Evaluation Information: The Buyer assigned to any transaction is responsible for performing due diligence prior to making an award. This oftentimes requires the buyer to verify information that may not have been requested in the bid documents. The County reserves the right to request any additional information such as financial information, customer references, additional pricing, additional clarification or any other information deemed necessary by the Buyer assigned to the transaction to facilitate a final decision.
9. PACKING MATERIALS: POLYSTYRENE PELLETS PROHIBITED. Due to environmental and solid waste considerations the Contra Costa County Board of Supervisors has directed that Polystyrene pellets shall not be accepted as packing. DO NOT ship your products using this material. Alternate vendors will be sought to replace Suppliers violating this policy.

WHEN APPLICABLE THE FOLLOWING SUPPLEMENTAL TERMS AND CONDITIONS WILL APPLY.

1. Codes: Work shall meet requirements of Contra Costa County Ordinance, Title 7, and all other applicable codes, regulations and laws, including Labor Code Sections 1776 and 1777.5.
2. Insurance: Contractor shall, at no cost to County, obtain and maintain during the term hereof: (a) Worker's Compensation Insurance pursuant to state law, and (b) Comprehensive Liability Insurance, including coverage for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including the loss of use thereof, arising out of each accident of occurrence. Contractor shall furnish evidence of such coverage, naming County, its officers and employees as additional insureds, and requiring 30 days' written notice of policy lapse or cancellation. The evidence of coverage shall be submitted before Work begins.
3. Hold Harmless & Indemnity.
 - a. Contractor promises to and shall hold harmless and indemnify from the liabilities as defined in this section.
 - b. The indemnitees benefited and protected by this promise are Contra Costa County and its elective and appointive boards, commissions, officers, agents and employees.
 - c. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, including personal injury, death, property damage, inverse condemnation, or any combination of these, regardless of whether or not such liability, claim or damage was unforeseeable at any time before Contra Costa County approved the improvement plan or accepted the improvements as completed, and including the defense of any suit(s) or action(s) at law or equity concerning these.

- d. The actions causing liability are any act or omission (negligent or non-negligent in connection with the matters covered by this contract and attributable to the contractor, subcontractor(s), or any officer(s), agent(s) or employee(s) of one or more of them.
 - e. Non-Conditions: The promise and agreement in this section is not conditioned or dependent on whether or not any Indemnitee has prepared, supplied, or approved any plan(s), drawing(s), specification(s) or special provision(s) in connection with this work, has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any Indemnitee.
4. Wage Rates. Pursuant to Labor Code Section 1773.2 the governing body of Contra Costa County has obtained the general prevailing rates of wages per diem for each craft, classification, or type of worker which shall be the minimum rates paid to all workers employed in the execution of this work. Said rates are on file with Contra Costa County, Capital Projects Management Division and copies of said rates are available to any interested party on request. Pursuant to Labor Code Section 1773.2, said rates shall be posted at the job site.
5. Installation. Unless otherwise noted, all manufactured materials, products, processes, equipment or the like shall be installed in accordance with manufacturer's printed instructions or specifications.
6. Activities on Premises.
- a. Premises, buildings and other facilities adjacent to designated or assigned work, and storage areas and access routes will be occupied by County and in continuous operation throughout duration of this Contract. Work under the Contract shall be programmed and executed so as not to interrupt County's operations, and conducted to cause the least interference and nuisance possible.
 - b. Premises, building, ground and utilities serving them not particularly assigned to Contractor shall not be used for Contractor's convenience nor used without express permission to do so, arranged for in advance with County.
 - c. Contractor shall maintain and protect existing facilities encountered or in near vicinity of work or operations under the Contract, including on grade, above grade, and below grade structures, utilities, construction and improvements, whether existing or newly placed under the Contract.
 - d. No service shall be shut down, transferred or otherwise interrupted without first being scheduled to be done at a time agreeable to County. Any shutdown of any utility shall be scheduled two working days in advance with project engineer.
 - e. When utilities are accidentally or inadvertently interrupted, they shall be immediately restored to service prior to continuation of any other work under the Contract, regardless of the hour of occurrence.
7. Temporary Utilities
- a. Electric Power and Water will be available at the site for use by the Contractor for work on this project at no cost to the Contractor. Installation of approved temporary connections to said utilities shall be provided by the Contractor, and same shall be removed at Completion of Work.

b. Existing toilet facilities may be used by the Contractor.

8. Toxic and Hazardous Materials and Waste

a. Asbestos:

- (1) This contract does not include the removal, handling, or disturbance of any asbestos containing materials. Some operations which may cause such disturbances include sanding, grinding, abrasive blasting, sawing, drilling, shoveling, or otherwise handling materials containing asbestos so that dust will be raised. Such materials can include resilient or terrazzo flooring, asbestos-cement board, cement plaster, asbestos pipe insulation and acoustical sprays, tiles and boards.
- (2) An asbestos consulting firm has done an asbestos survey of the facility for the County. Their final asbestos survey report may be examined at the Capital Projects Management Division Office.
- (3) Materials containing asbestos in a non-friable state may remain in the building, and are not to be altered or disturbed. Such materials and their locations are identified in the asbestos survey report.
- (4) If removal or alteration of asbestos containing materials becomes necessary or if concealed asbestos in any form is discovered, work in that area shall immediately stop and the County shall be notified. Removal, alteration, or any work in connection with asbestos containing materials shall be accomplished only by licensed asbestos abatement contractors operating under a separate contract with the County.
- (5) In the event that work is stopped in one area due to the presence of asbestos containing materials, the General Contractor shall utilize his work force in other areas of the building and shall minimize delays to the overall project schedule. If delays do occur and are directly related to asbestos work, and through no fault of the General Contractor, the General Contractor shall be entitled to apply for an extension of time.
- (6) Nothing in these specifications is intended to specify or direct the contractor in the removal, alteration, or disposal of asbestos containing materials.

b. Toxic materials: Operations which release toxic materials into the atmosphere shall meet the requirements of CCR Title 8, General Industrial Safety Orders. Some operations which may release such materials include use of adhesives, sealants, paint and other coatings.

c. Lead based paint: Do not use lead based paint. Lead based paint is defined as:

- (1) Any paint containing more than five-tenths on one per centum lead by weight (calculated as lead metal in the total non-volatile content of the paint) or the equivalent measure of lead in the dried film of paint applied or both; or
- (2) For paint manufactured after June 22, 1977, any paint containing more than six one-hundredths of one per centum lead by weight (calculated as lead metal) in the total content of the paint or the equivalent measure of lead in the dried film or paint already applied.

- d. Hauling and disposal: Meet requirements of CCR Title 22, Division 4, Chapter 30, "Minimum Standards for Management of Hazardous and Extremely Hazardous Wastes."
- 9. Excavation. Contractor shall comply with the provisions of Labor Code Sec. 6705, if applicable, by submitting to Contra Costa County a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during trench excavation.
- 10. Contract Time. It is agreed that time is of the essence and that the work shall be completed within calendar days from and after the date of commencement stated in Notice to Proceed which will be issued by the County after the Purchase Order is issued and the Contractor's evidence of insurance is received.