

**COUNTY OF SAN DIEGO  
STANDARD TERMS & CONDITIONS OF PURCHASE**

**Acceptance**

1. **Acceptance.** By acceptance of this purchase order, Vendor agrees to be bound by, and to comply with, these terms and conditions including Exhibit A, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded. The terms of any proposal from Vendor referred to in this order are included and made a part of the order, but only to the extent of specifying the nature, price and delivery date of the goods and/or services ordered, and then only to the extent that such terms are consistent with the terms and conditions of this order. Any invoice, acknowledgement or other form used by Vendor shall not add to, amend, or modify these terms and conditions.

2. **Formal Bids.** In the event this purchase order results from a formal bid, terms and conditions of that bid are incorporated herein and form a part of this purchase order. In the event of any conflict or inconsistency between the terms of this purchase order and the terms of a formal bid, the terms of the formal bid shall control.

**Performance of Work**

3. **No Off Shore Data.** Except where Vendor obtains the County's prior written approval, Vendor shall perform all of the services order under this order only from or at locations within the geographic boundaries of the United States. Any County approval for the performance of the services order under this order outside of the geographic boundaries of the United States shall be limited to the specific instance and scope of such written approval, including the types of services and locations involved. Notwithstanding the foregoing, this Section 3 shall not restrict the country or countries of origin of any assets purchased to provide the services hereunder; provided, that when such assets are used to provide the services, such assets shall be used only from or at locations within the geographic boundaries of the United States.

**Compensation**

4. **Cash Discounts.** In connection with any cash discount specified on this order, time will be computed from the later of the date of (i) complete delivery of the goods and/ or services as specified, or (ii) receipt of correct invoices. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing of the County warrant or check.

5. **Sales and Use Tax.** On invoices, Vendor shall show any sales or use tax if applicable, as separate items, giving permit number authorizing collection of Use tax. Vendor shall deduct cash discount before computing Sales or Use Tax.

6. **Disallowance.** In the event the Vendor receives payment for services under this order which is later disallowed by the County, the Vendor shall promptly refund the disallowed amount to the County on request, or at its option, the County may offset the amount disallowed from any payment due to the Vendor under any contract with the County.

**Termination**

7.1 **Termination For Cause - Cancellation.** The County may, by written notice of default to the Vendor, terminate this order in whole or in part, should the Vendor fail to make satisfactory progress, fail to deliver within the time specified or fail to deliver in strict conformance to specifications or requirements set forth herein. In the event of such termination, the County reserves the right to purchase or obtain the supplies or services elsewhere and the defaulting Vendor shall be liable for the difference between the prices set forth in this order and the actual cost thereof to the County. In such case, the prevailing market price shall be considered to be the fair repurchase price. The rights and remedies of County provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

7.1.1 If, after notice of termination of this order under the provisions of this clause, it is determined for any reason that the Vendor was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Clause 19, Termination For Convenience.

7.2 **Termination For Convenience.** The County may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part,

at any time. The County shall pay the Vendor, as full compensation for work performed in accordance with the terms of this order until such termination:

7.2.1 The unit or pro rata price for any delivered and accepted portion of the work.

7.2.2 A reasonable amount, as costs of termination, not otherwise recoverable from other sources by the Vendor as approved by the County, with respect to the undelivered or unaccepted portion of the order, provided compensation hereunder shall in no event exceed the total price.

7.2.3 In no event shall the County be liable for any loss of profits on the resulting order or portion thereof so terminated.

7.2.4 County's termination of this order for convenience shall not preclude County from taking any action in law or equity against Vendor for:

- A. Improperly submitted claims, or
- B. Any failure to perform the work in accordance with the Statement of Work, or
- C. Any breach of any term of condition of the order, or
- D. Any actions under any warranty, express or implied, or
- E. Any claim of professional negligence, or
- F. Any other matter arising from or related to this order, whether known, knowable or unknown before, during or after the date of termination.

**Compliance with Laws and Regulations**

8. **Compliance With Laws.** Vendor shall comply with all federal, State, and County laws, regulations, rules and orders (collectively, "Regulations"), current and hereinafter enacted, applicable to the goods and/or services to be provided hereunder, including facility and professional licensing and/or certification laws. Vendor shall keep in effect any and all licenses, permits, notices, and certificates as are required. Vendor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health, and sanitation. Vendor's failure to comply with any applicable Regulations shall constitute a material breach of this purchase order.

9. **Vendor Permits and License.** Vendor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to County, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all existing foreign or domestic statutes, ordinances, and regulations, or other laws, that may be applicable to performance of services hereunder. County reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder

10. **Equal Opportunity.** Vendor shall comply with the provisions of Title VII of the Civil Rights Act of 1964 in that it will not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Vendor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.

11. **Affirmative Action.** If applicable, Vendor shall comply with the Affirmative Action Program for Vendors as set forth in Article IIIk (Commencing at Section 84) of the San Diego County Administrative Code, which program is incorporated herein by reference. A copy of this affirmative action program will be furnished upon request.

12. **Non Discrimination.** Vendor shall ensure that services and facilities are provided without regard to ethnic group identification, race, color, nation origin, creed, religion, age, sex, or physical, mental disability, political affiliation and marital status in accordance with Title IX of the Education Amendments of 1972; Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000-d), the Age Discrimination of 1975 (42 U.S.C. 6101), Article 9.5, Chapter 1, Part 1, Division 2, Title 2 (Section 11135, et seq) of the California Government Code, Title 9, Chapter 4, Subchapter 6 (Section 10800, et seq.) of the CCR and California Dept of Social Services Manual of Policies and Procedures (CDSS MPP) Division 21.

13. **AIDS Discrimination.** Vendor shall not deny any person the full and equal enjoyment of, or impose less advantageous terms, or restrict the availability of, the

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use of any County facility or participation in any County funded or supported service or program on the grounds that such person has Acquired Immune Deficiency Syndrome as that term is defined in Title 3, Division 2, Chapter 8, Section 32.803, San Diego County Code of Regulatory Ordinances.

14. American With Disabilities Act (ADA) 1990. Vendor shall not discriminate against qualified people with disabilities in employment, public services, transportation, public accommodations and telecommunications services in compliance with the Americans with Disabilities Act (ADA) and California Administrative Code Title 24.

15. Political Activities Prohibited. None of the funds, provided directly or indirectly, under this order shall be used for any political activities or to further the election or defeat of any candidate for public office. Vendor shall not utilize or allow its name to be utilized in any endorsement of any candidate for elected office. Neither the order nor any funds provided thereunder shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.

16. Lobbying. Vendor agrees to comply with the lobbying ordinances of County and to assure that its officers and employees comply before any appearance before the County Board of Supervisors. None of the funds provided under this order shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State and Federal Legislatures or the Board of Supervisors of the County.

17. Religious Activity Prohibited. There shall be no religious worship, instructions or proselytization as part of or in connection with the performance of this order.

18. Drug and Alcohol-Free Workplace. The County of San Diego, in recognition of individual rights to work in a safe, healthful and productive work place, has adopted a requirement for a drug and alcohol free work place, County of San Diego Drug and Alcohol Use Policy C-25. This policy provides that all County-employed Vendors and Vendor employees shall assist in meeting this requirement.

As a material condition of this order, Vendor agrees that it and its employees, while performing service for County, on County property, or while using County equipment:

- A. Shall not be in any way impaired because of being under the influence of alcohol or a drug.
- B. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
- C. Shall not sell, offer, or provide alcohol or a drug to another person; provided, however, that the foregoing restriction shall not be applicable to a Vendor or Vendor employee who as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.
- D. Vendor shall inform all employees who are performing service for County on County property or using County equipment of County objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for County.
- E. County may terminate for default or breach this order, and any other agreement Vendor has with County, if Vendor or its employees are determined not to be in compliance with the conditions listed herein.

19. Board of Supervisors' Policies. Vendor represents that it is familiar, and shall use its best efforts to comply, with the following policies of the Board of Supervisors:

- A. Board Policy B-67, which encourages the County's Vendors to offer products made with recycled materials, reusable products, and products designed to be recycled to the County in response to the County's requirements; and
- B. Board Policies B-53 and B-39A, which encourage the participation of small and disabled veterans' business enterprises in County procurements; and
- C. Zero Tolerance For Fraudulent Conduct In County Services. Vendor shall comply with County of San Diego Board of Supervisors Policy A-120 "Zero Tolerance for Fraudulent Conduct in County Services." There shall be "Zero Tolerance" for fraud committed by Vendors in the administration of County programs and the provision of County services. Upon proven instances of fraud committed by independent Vendors in

connection with their performance under the order, said order shall be terminated; and

D. Interlocking Directorate. In recognition of County Policy A-79, not-for-profit Vendors shall not subcontract with related for-profit subVendors for which an interlocking relationship exist unless specifically authorized in writing by the Board of Supervisors.

20. Cartwright Act. Following receipt of final payment under the order, Vendor assigns to the County all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright act (Chapter 1) (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Vendor for sale to the County under this order.

21. Hazardous Materials. Vendor shall comply with all Environmental Laws and all other laws, rules, regulations, and requirements regarding Hazardous Materials, health and safety, notices, and training. Vendor agrees that it will not store any Hazardous Materials at any County Facility for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by Environmental Law. Vendor agrees to take, at its expense, all actions necessary to protect third parties, including, without limitation, employees and agents of the County, from any exposure to Hazardous Materials generated or utilized in its performance under this order. Vendor agrees to report to the appropriate governmental agencies all discharges, releases, and spills of Hazardous Materials that are required to be reported by any Environmental Law and to immediately notify the County of it. Vendor shall not be liable to the County for the County's failure to comply with, or violation of, any Environmental Law. As used in this section, the term "Environmental Laws" means any and all federal, state or local laws or ordinances, rules, decrees, orders, regulations or court decisions (including the so-called "common law"), including, but not limited to, the Resource Conservation and Recovery Act, relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions or other similar substances or conditions. As used in this section the term "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (a) is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (b) is controlled, referred to, designated in or governed by any Environmental Laws; (c) gives rise to any reporting, notice or publication requirements under any Environmental Laws, or (d) is any other material or substance giving rise to any liability, responsibility or duty upon the County or Lessee with respect to any third person under any Environmental Laws.

22. Debarment And Suspension. As a potential sub-grantee of federal funds under this order, Vendor certifies that it, its principals, its employees and its subVendors:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal Department or agency;
- B. Have not within a 3-year period preceding this order been convicted of or had a civil judgment rendered against them for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and
- D. Have not within a 3-year period preceding this order had one or more public transaction (Federal, State, or local) terminated for cause or default.

23. RESERVED

**Conflicts of Interest; Vendor's Conduct**

24. Conflicts of Interest. Vendor presently has no interest, including but not limited to other projects or independent agreements, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this order. Vendor

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shall not employ any person having any such interest in the performance of this order. Vendor shall not hire County's employees to perform any portion of the work or services provided for herein including secretarial, clerical and similar incidental services except upon the written approval of County. Without such written approval, performance of services under this order by associates or employees of County shall not relieve Vendor from any responsibility under this order.

25. **Prohibited Agreements.** As required by Section 67 of the San Diego County Administrative Code, Vendor certifies that it is not in violation of the provisions of Section 67, and that Vendor is not, and will not subcontract with, any of the following:

- A. Persons employed by County or of public agencies for which the Board of Supervisors is the governing body;
- B. Profit-making firms or businesses in which employees described in sub-section (a), above, serve as officers, principals, partners, or major shareholders;
- C. Persons who, within the immediately preceding twelve (12) months came within the provisions of the above sub-sections and who (1) were employed in positions of substantial responsibility in the area of service to be performed under the order, or (2) participated in any way in developing the order or its service specifications; and
- D. Profit-making firms or businesses in which the former employees described in sub-section (c) above, serve as officers, principals, partners, or major shareholders.

**Indemnity and Insurance**

26. **Indemnity.** County shall not be liable for, and Vendor shall defend and indemnify County and the employees and agents of County (collectively, "County Parties") against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to or arising out of this purchase order, and arising either directly or indirectly from any act, error, omission or negligence of Vendor or its Vendors, licensees, agents, servants or employees, including Claims caused by the concurrent negligent act, error or omission of County Parties. However, Vendor shall have no obligation to defend or indemnify County Parties against Claims (i) to the extent they arise from the active concurrent negligence of County Parties, or (ii) caused by the sole negligence or willful misconduct of County Parties.

27. **Intellectual Property Indemnity.** Vendor shall defend with counsel satisfactory to County, indemnify, and hold County harmless, at Vendor's expense, against any claim, suit, proceeding, demand, liability, loss, damage or expense (including but not limited to attorneys' fees) arising from or relating to a claim that any work performed pursuant to this purchase order infringes a patent, copyright, moral right, trademark, trade secret, or other intellectual property right of a third party. Without limiting the generality of the foregoing, if any portion of any the same or County's use of the same is, or in Vendor's or County's opinion likely to be, held to infringe the rights of any third party, Vendor shall at its expense either (i) procure the right for County to use the infringing item free of any liability or expense to County to the full extent contemplated by this order; or (ii) replace it with a non-infringing equivalent reasonably satisfactory to County. Without limiting the County's other rights and Vendor's obligations under this Section 27, County shall have the right to employ counsel at its own expense for, and participate in the defense of, any claim.

28. **Insurance.** Without limiting Contractor's indemnification obligations to County, Contractor shall provide at its sole expense and maintain for the duration of this contract, or as may be further required herein, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of the work by the Contractor, his agents, representatives, employees or subcontractors.

1. **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

- A. Commercial General Liability, Occurrence form, Insurance Services Office form CG0001.
- B. Automobile Liability covering all owned, non owned, hired auto Insurance Services Office form CA0001.

C. Workers' Compensation, as required by State of California and Employer's Liability Insurance.

D. Professional Liability required if Contractor Provides or engages in any type of professional services, including but not limited to medical professional, counseling services or legal services.

2. **Minimum Limits of Insurance**

Contractor shall maintain limits no less than:

A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability, and Independent Contractors Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$2,000,000.

B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage.

C. Employer's Liability: \$1,000,000 each accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of County of San Diego.

D. Professional Liability: \$2,000,000 per claim with an aggregate limit of not less than \$4,000,000. Any self-retained limit shall not be greater than \$50,000 per occurrence/event without County Risk Management approval. If policy contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any such aggregate limit has been paid or reserved, County will require additional coverage to be purchased by Contractor to restore the required limits. This coverage shall be maintained for a minimum of two years following termination of completion of Contractor's work pursuant to the Contract.

3. **Deductibles and Self-Insured Retentions**

Any deductible or self-insured retention must be declared to and approved by County Risk Management. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

4. **Other Insurance Provisions**

The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:

A. **Additional Insured Endorsement**

Any general liability policy provided by Contractor shall contain an additional insured endorsement applying coverage to the County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively.

B. **Primary Insurance Endorsement**

For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

C. **Notice of Cancellation**

Notice of Cancellation shall be provided in accordance with policy provisions.

D. **Severability of Interest Clause**

Coverage applies separately to each insured, except with respect to the limits of liability, and that an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds.

**General Provisions**

5. **Qualifying Insurers**

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A-, VII according to the current Best's Key Rating

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guide, or a company of equal financial stability that is approved in writing by County Risk Management.

**6. Evidence of Insurance**

Prior to commencement of this Contract, but in no event later than the effective date of the Contract, Contractor shall furnish the County with certificates of insurance and amendatory endorsements effecting coverage required by this clause. Renewal certificates and amendatory endorsements shall be furnished to County within thirty days of the expiration of the term of any required policy. Contractor shall permit County at all reasonable times to inspect any required policies of insurance.

**7. Failure to Obtain or Maintain Insurance; County's Remedies**

Contractor's failure to provide insurance specified or failure to furnish certificates of insurance and amendatory endorsements or failure to make premium payments required by such insurance, shall constitute a material breach of the Contract, and County may, at its option, terminate the Contract for any such default by Contractor.

**8. No Limitation of Obligations**

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the County are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to the Contract, including, but not limited to, the provisions concerning indemnification.

**9. Review of Coverage**

County retains the right at any time to review the coverage, form and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

**10. Self-Insurance**

Contractor may, with the prior written consent of County Risk Management, fulfill some or all of the insurance requirements contained in this Contract under a plan of self-insurance. Contractor shall only be permitted to utilize such self-insurance if in the opinion of County Risk Management, Contractor's (i) net worth, and (ii) reserves for payment of claims of liability against Contractor, are sufficient to adequately compensate for the lack of other insurance coverage required by this Contract. Contractor's utilization of self-insurance shall not in any way limit liabilities assumed by Contractor under the Contract.

**11. Claims Made Coverage**

If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:

A. The policy retroactive date coincides with or precedes Contractor's commencement of work under the Contract (including subsequent policies purchased as renewals or replacements).

B. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Contract, including the requirement of adding all additional insured's.

C. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Contract.

D. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

**12. Subcontractors' Insurance**

Contractor shall require that any and all Subcontractors hired by Contractor are insured in accordance with this Contract. If any Subcontractors coverage does not comply with the foregoing provisions, Contractor shall defend and indemnify the County from any damage, loss, cost or expense, including attorney fees, incurred by County as a result of Subcontractors failure to maintain required coverage.

**13. Waiver of Subrogation**

Contractor and County release each other, and their respective authorized representatives, from any Claims (as defined in the Article entitled "Indemnity" of the Contract), but only to the extent that the proceeds received from any policy of

insurance carried by County or Contractor, other than any self-insurance, covers any such Claim or damage. Included in any policy or policies of insurance provided by Contractor hereunder shall be a standard waiver of rights of Subrogation against County by the insurance company issuing said policy or policies.

**Audit and Inspection**

29. **Audit Right.** Pursuant to California Government Code Section 8546.7, the parties acknowledge that every contract involving the expenditure of public funds in excess of \$10,000 shall be subject to audit by the State Auditor.

30. **[NOTE – This paragraph to be included if federal money involved. For minor service contracts involving no federal money, this paragraph may be RESERVED if it is not applicable]** Vendor shall annually engage a Licensed Certified Public Accountant to conduct an annual audit of their agency's operations. Vendors that expend \$500,000 or more of federal grant funds per year shall also have an audit conducted in compliance with Government Auditing Standards, which includes Single Audit Act Amendments, Public Law 104-156, and OMB Circular A-133. Vendor shall include a clause in any agreement Vendor enters into with an audit firm to provide access by the County, State, Federal Government to the working papers of the independent auditor who prepare the audit for Vendor. Vendor shall submit two (2) copies of the annual audit report, the audit performed in accordance with OMB Circular A-133, and the management letter to the County fifteen (15) days after receipt from the independent Certified Public Accountant but no later than nine (9) months after Vendor's fiscal year end.

31. **Audit and Inspection.** Vendor agrees to maintain and/or make available within San Diego County accurate books and accounting records relative to all its activities under this order. Authorized Federal, State or County representatives shall have the right to monitor, assess, or evaluate Vendor 's performance pursuant to this order said monitoring, assessments, or evaluations to include but not limited to audits, inspection of premises, reports, and interviews of project staff and participants.

At any time during normal business hours and as often as County may deem necessary, Vendor shall make available to County, State or Federal officials for examination all of its records with respect to all matters covered by this order and will permit County, State or Federal officials to audit, examine and make excerpts or transcripts from such records, and to make audits of all invoices, materials, payrolls, records of personnel, information regarding clients receiving services, and other data relating to all matters covered by this order. If an audit is conducted, it will be done in accordance with generally accepted government auditing standards as described in Government Auditing Standards, published for the United States General Accounting Office.

If any services performed hereunder are not in conformity with the specifications and requirements of this order, County shall have the right to require Vendor to perform the services in conformity with said specifications and requirements at no additional increase in total order amount. When the services to be performed are of such nature that the difference cannot be corrected, County shall have the right to (1) require Vendor immediately to take all necessary steps to ensure future performance of the services in conformity with requirements of the order, and (2) reduce the order price to reflect the reduced value of the services performed. In the event Vendor fails to perform the services promptly or to take necessary steps to ensure future performance of the service in conformity with the specifications and requirements of the order, County shall have the right to either (1) by agreement or to otherwise have the services performed in conformity with the order specifications and charge to Vendor any cost occasioned to County that is directly related to the performance of such services, or (2) terminate this order for default as provided in the Termination For Cause clause.

32. **Maintenance of Records.** Vendor shall maintain and keep available all records within the County of San Diego for a minimum of three (3) years from the ending date of this order unless County agrees in writing to an earlier disposition.

**Warranty**

33. **Warranty.** Vendor agrees that any goods and/or services furnished under this order shall be covered by the most favorable commercial warranties Vendor gives to any of its customers for the same or substantially similar goods and/or services. Any warranties so provided shall supplement, and shall not limit or reduce, any rights afforded to County by any other provision of this order or by any applicable Uniform Commercial Code warranties.

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**General Provisions**

34. Assignment. This order is assignable by County. Except as to any payment due hereunder, this order is not assignable by Vendor without written approval of County.

35. Delivery. Unless otherwise specified in writing in this order, all shipments will be F.O.B. point of destination. Freight or handling charges are not billable unless referenced on this order. Transportation receipts, if allowed by order, must accompany invoice.

36. Changes. County shall recognize no change to this order by Vendor without written approval.

37. Governing Law. This contract shall be construed and interpreted according to the laws of the State of California.

38. Timeliness. Time is of the essence and this purchase order is subject to termination for failure to deliver on time.

IN WITNESS WHEREOF, County and Contractor have executed this Agreement effective as of the date signed by the Department of Purchasing and Contracting.

XXXXXXXXXXXXXXXXXX

By: \_\_\_\_\_  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

Date: \_\_\_\_\_

COUNTY OF SAN DIEGO

By: \_\_\_\_\_  
JOHN M. PELLEGRINO, Director  
Department of Purchasing and Contracting

Date: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

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EXHIBIT A – FEDERAL GRANT REQUIREMENTS**

(A) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, if this Agreement meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, the Contractor shall agree as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(B) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, if this Agreement is a prime construction contract in excess of \$2,000, the Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute,

Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

(C) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, if this Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(D) Rights to Inventions Made Under a Contract or Agreement. If this Agreement involves a Federal award meeting the definition of "funding agreement" under 37 CFR §401.2 (a) and the Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(E) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—If this Agreement is in excess of \$150,000, Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

(F) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—If this Agreement exceeds \$100,000, Contractor must file the certification required by 31 U.S.C. 1352 with the County. Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must also disclose to the County any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

(G) Contractor shall comply with 2 C.F.R. §200.322, Procurement of recovered materials.