



Purchase Order Terms & Conditions

The following Purchase Order Terms and Conditions are only applicable when the Vendor and the City have not entered into and executed a Contract for Goods, Services, Consulting, On-Call Services, Landscape, Maintenance, or any other type of Contractual Agreement. The terms and conditions of the executed contract between the City and Vendor shall control at all times.

The Vendor agree as follows:

ACKNOWLEDGMENT. Vendor acknowledges that it has reviewed the City's terms and conditions and insurance requirements and that hereby agrees to full compliance. This Purchase Order (PO) is the City's offer to Vendor. Vendor's acceptance shall be strictly limited to the terms of this PO and the City hereby rejects any additional or different terms in Seller's acceptance; by beginning performance, Seller accepts this PO as written.

MODIFICATIONS / CHANGE ORDERS. Vendor shall furnish to the City all materials, equipment, and/or supplies described in the Purchase Order (PO) preceding this page. Vendor, without the written consent of the City Purchasing Agent, shall not assign the PO, or any interest therein, or any money due thereunder; or make any changes, alterations or variations in the terms of the PO. This purchase order may only be modified through a Change Order issued by the Purchasing Agent.

DELIVERIES. Deliveries (as specified on the Order) shall be strictly in accordance with the quantities and schedule specified on the Order. If at any time it appears Seller may not meet such schedule, Seller shall immediately by verbal means (to be confirmed in writing) notify City of the reasons for, and estimated duration of, the delay, and if requested by City, make every effort to avoid or minimize the delay to the maximum extent possible, including the expenditure of premium time and shipping via air or other means of fast transportation. Any additional costs caused by these requirements shall be borne by the Seller, unless delay in delivery arises out of causes beyond the control and without the fault or negligence of Seller or its subcontractors.

INSPECTION. The materials, supplies, or services furnished shall be exactly as specified in this order, free from all defects in Seller's design, workmanship, and materials, and except as otherwise provided in this Agreement, shall be subject to inspection and test by the City at all times and places. If any materials, supplies, or services are found to be defective or not as specified, the City may reject them, require Seller to correct them without charge, or require delivery of such materials, supplies, or services at a reduced price, which is equitable under the circumstances. Seller shall bear all risks as to rejected materials, supplies, and services and, in addition to any costs for which Seller may become liable to the City under other provisions of this Order, shall reimburse the City for all transportation costs, other related costs incurred, or payments to Seller in accordance with the terms of this agreement for unaccepted materials, supplies, and services. Neither final acceptance nor payment shall relieve Seller of responsibility for faulty materials, supplies, or services.

TITLE: Except as otherwise expressly provided herein, title to and risk of loss on all items shipped by Vendor to the City shall pass to the City upon the City's inspection and acceptance of such items at City's buildings.

PRODUCT LIABILITY: Vendor warrants that it now has, or shall continue to maintain during the term of this order, insurance covering product liability should malfunction occur causing injury. Vendor also warrants the reliability, suitability and completeness of the product, and guarantees that product shall be free from any destructive or malicious content, which would have an adverse effect on the City.

WARRANTIES: The City rejects any disclaimer by Vendor of any warranty, standard, implied or express, unless specifically agreed to on the face of this Agreement.

PAYMENT. The City shall pay to Vendor the amount due as quoted by Vendor and specified in the PO, after delivery, inspection and acceptance of the materials equipment or supplies by the City. No invoice shall be issued prior to shipment of products or delivery of services. No payments shall be made until receipt of a correct invoice, and the City reserves the right to delay payment until the products or services have been accepted.

TAXES: The City is subject to California State sales and use tax. If Seller is licensed to collect this tax, it should be included on Seller's invoice. The City is exempt from Federal Excise Tax (exemption certificates will be furnished by the Purchasing and Contracts Division upon request).

NON-APPROPRIATION OF FUNDS: In the event the City has not appropriated sufficient funds for payment under this PO beyond the current fiscal year, and if no funds are legally available from other sources to lawfully make the payments, this PO may be terminated for lack of funding and the City shall not be obligated to make further payments beyond the current original or renewal PO. The City will provide notice of its inability to continue the PO at such time as the City's Designated Representative or Purchasing Agent is aware of the non-appropriation of funds. However, failure to notify does not renew the PO.

CONFLICT OF INTEREST. Seller warrants to the best of its knowledge that the submission of any offer related to this order does not constitute a conflict of interest in terms of negotiating for or having an arrangement with any City employee or elected or appointed member of City government, including any member of the employee's immediate family who may have participated directly or indirectly with the Purchasing Agent. Any breach or violation of this provision, the City shall have the right to annul this agreement without liability, and Seller may be subject to damages and/or debarment or suspension.

INDEMNIFICATION, HOLD HARMLESS, DEFEND. Vendor shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Vendor negligence or willful misconduct in the performance of this Purchase Order, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

INSURANCE. Depending on the nature of the Purchase Order, Vendor may be required to obtain insurance. If so, the following provision will apply:

Vendor shall obtain and maintain during the performance of the Purchase Order the insurance coverages required by the City's Risk Manager, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of this Purchase Order, file with the Risk Manager evidence of insurance coverage. Maintenance of insurance coverages by Vendor is a material element of the Purchase Order and failure to maintain or renew insurance coverages is a material breach of the Purchase Order.

COMPLIANCE WITH LAWS Vendor shall abide by all Federal, State, and Local Laws, Ordinances, Regulations, and Statutes, including Occupational Safety and Health Administration standards, as may be related to the performance of duties under this agreement. In addition, the Vendor, at Vendor's sole expense, shall obtain all applicable permits and licenses that are required for performance hereunder. This Order shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

TERMINATION. At any time, with or without cause, the City shall have the right, in its sole discretion, to terminate this PO by giving written notice to Vendor. Termination shall become effective immediately upon the giving of notice by any means including email. The City shall pay Vendor for all materials, equipment, and/or supplies received by the City.

NON-DISCRIMINATION. Vendor, when providing a service, program, or activity to the public on behalf of the City, shall not discriminate in the employment of any person because of race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight, or height of such person. Any vendor who is found in violation of the nondiscrimination provisions of the State of California Fair

Employment Practices Act or similar provision of federal law or executive order in the performance of any PO with the City shall be found in material breach of this PO and the City shall have the power to cancel or suspend the contract, in whole or in part.

GRANT REQUIREMENTS. Federal Grant Fund Provisions: (only applicable if grant funded)

- a. Equal Opportunity. Vendor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- b. This purchase order is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Vendor is required to verify that none of Vendor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935). The Vendor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. Vendor 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.
- d. The Vendor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this purchase order.