

TERMS AND CONDITIONS FOR PURCHASE ORDERS

1. PURCHASE OF GOODS & SERVICES. City agrees to purchase, and Vendor agrees to sell, the goods ("Goods") and/or to provide the services ("Services") set forth in (i) City's Notice Inviting Bids or other written solicitation of bids by the Purchasing Agent ("City's Bid Documents") and (ii) Vendor's Bid in response thereto (Vendor's Bid"). City's Bid Document and Vendor's Bid shall be referred to collectively as the "Bid Documents." The Goods shall be in compliance with all of the standards and specifications set forth in the Bid Documents, and the Services shall be provided in a manner consistent with that level of care and skill ordinarily exercised by members in the same profession, practicing in the same locality under similar conditions. In the event of any conflict, the order of precedent shall be as follows: (i) specifications set forth in this Purchase Order; (ii) City's Bid Documents; and (iii) Vendor's Bid. There shall be no substitution of Goods or Services, without written authorization of the Purchasing Agent.

2. DELIVERY DATE. The Goods must be shipped and must arrive at the destination specified on the Purchase Order as "Ship/Bill To" and Services must be provided by Vendor by the request date specified therein ("Required Delivery Date"). Any failure by Vendor to meet the Required Delivery Date will constitute a material default of this Purchase Order and City may cancel any Goods not delivered in a timely manner without liability. Vendor must notify City immediately if Vendor reasonably believes Vendor will not be able to meet the Required Delivery Date for any reason and provide the City with a schedule that Vendor reasonably it will be able to meet. It is within City's discretion whether it will accept the revised schedule. If Vendor fails to deliver by the date specified and City has to purchase goods elsewhere, Vendor will be responsible for any costs City has to expend over and above the original purchase price.

3. PURCHASE PRICE. The purchase price for the Goods and Services shall be the amount set forth in this Purchase Order. Vendor represents that the prices quoted to or paid by City will not exceed current prices charged to any other customer by Vendor on the Execution Date for items that are the same or substantially similar to the Goods, taking into consideration the quantity under consideration, and the Vendor will forthwith refund any amounts paid by City in excess of the price. Unless otherwise provided, the Goods and Services stated herein will not be subject to any price increase from the date on which this order is accepted by Vendor. This price protection period shall at no time exceed twelve (12) months. If Vendor's established price for any item upon the delivery date shall be lower than the price shown on this order, then City shall have the benefit of such lower price. In the event that City is entitled to a cash discount, the period of

computation will commence on the date of delivery, or receipt of a correctly completed invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval for payment is authorized. If a discount is part of the contract, but the invoice does not reflect the existence of a cash discount, City is entitled to a cash discount with the period commencing on the date it is determined by City that cash discount applies.

4. CANCELLATION. City, by notifying Vendor in writing, shall have the right to terminate any portion of this Purchase Order prior to the delivery of Goods or at any time during the performance of Services. In the event of such termination, Vendor may submit Vendor's final written statement of the amount of Vendor's Services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and their documents only after delivered to City. City shall give Vendor thirty (30) days written notice prior to termination, including where City decides not to pursue or to postpone the Project for which the Goods and/or Services were procured. Notwithstanding the foregoing, City may terminate this Purchase Order upon fifteen (15) days written notice to Vendor in the event Vendor substantially fails to perform or materially breaches the Purchase Order terms and conditions.

5. DELIVERY RISK OF LOSS. All orders will be F.O.B. destination if not otherwise specified. Risk of loss or damage to the Goods must remain with the Vendor until the Goods have been delivered to and accepted by City. All Goods and Services will be received by City subject to its right of inspection, rejection, and revocation of acceptance under the Uniform Commercial Code. City will be allowed a reasonable period of time to inspect the Goods and Services and to notify Vendor of any nonconformance with the terms and conditions of the specifications. City may reject any Goods and Services that do not conform to the terms and conditions of this Bid Documents. Any Goods and Services rejected may be returned to Vendor at Vendor's risk and expense.

6. INVOICES. An invoice must be mailed to City at the address specified in the Purchase Order as "Bill To" no later than the 5th day after shipment is made. Individual invoices must be issued for each shipment against each Purchase Order. Invoices must contain the Purchase Order number, description of Goods and Services, unit price, quantities billed, extended totals, and applicable taxes as set forth in this Purchase Order. Vendor must separately state on all invoices any taxes

imposed by the local state or federal state government applicable to furnishing of Goods and Services; provided, however, where a tax exemption is available, the tax must be subtracted from the total price and identified. Unless otherwise set forth in the Purchase Order, the purchase price will be considered to include state and city sales or use tax.

7. PACKING AND SHIPPING. Deliveries must be made as specified, without charge, for boxing, crating, or storage, and secured at the lowest transportation costs, and in a manner to assure against damage from weather or transportation. City's order numbers and symbols must be plainly marked on all invoices, packages, and shipping orders. Packing lists specifying the quantity, description, and Purchase Order Number must accompany each box or packing shipment. City's count or weight will be final and conclusive on shipments not accompanied by packing lists.

8. WARRANTY. Vendor warrants that all Goods will conform to applicable specifications and samples, will be merchantable, of good workmanship in material, and free from defect. Unless manufactured pursuant to detailed design furnished by City, Vendor assumes design responsibility and warrants the Goods to be free from design defect and suitable for the purposes intended by City, and that such Goods if installed by Vendor shall conform to applicable specifications. Vendor warrants and represents that all Goods ordered herein are free and clear of the liens, claims, or encumbrances of any kind. Vendor's warranties, together with its service guarantees, must run to the City and its customers or users of the Goods and Services and must not be deemed exclusive. The City's inspection, approval, acceptance, use of, and payment for all or any part of the Goods and Services must in no way affect its warranty rights whether or not a breach of warranty had become evident in time.

9. CHANGES. City has the right to change the quantity or specifications of the Goods and Services ordered and the terms of shipment or packaging of Goods. Upon receipt of any notice, Vendor will proceed promptly to make the changes in accordance with the terms of the notice. If any change causes an increase or decrease in the cost or performance or in the time required for performance, an equitable adjustment must be negotiated, promptly, and the contract modified in writing accordingly. Vendor must deliver to City as promptly as possible, and in any event within 30 days after receipt of change notice, a statement showing the effect of any change in the delivery dates and prices; the statement must be supplemented within 30 days by detailed specification of the amount of the price adjustment and supporting cost figures. Vendor's failure to submit the statements within the time limits stated will constitute its consent to perform the change

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without increase in price, without change in delivery schedules.

10. INDEMNITY. Except as to the sole negligence, active negligence, or willful misconduct of City, Vendor shall indemnify, defend, and hold City, and its employees, officers, managers, agents and council members, harmless from any and all loss, damage, claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fine and penalties, liabilities or losses of any kind or nature whatsoever whether actual, threatened or alleged, which arises out of, pertain to, or relate to, or is in any manner connected with the Goods and Services provided pursuant this Purchase Order and/or the performance of work, activities, operations, representations, or duties of Vendor, or anyone employed by or working under Vendor, and from all claims by anyone employed by or working under Vendor for services rendered to Vendor in the performance of this Agreement, notwithstanding that City may have benefited from their services. The parties expressly agree that any payment, attorneys' fees, costs or expense that City incurs or makes to or on behalf of an injured employee under City's self-administered workers compensation is included as a loss, expense or cost for the purposes of this Section, and that this Section shall survive the expiration or early termination of the Purchase Order.

11. GOVERNING LAW; JURISDICTION. This Purchase Order shall be construed in accordance with and governed by the laws of the State of California. For any dispute arising from this Purchase Order, the parties consent to jurisdiction and venue in the Riverside County Superior Court.

12. COMPLIANCE WITH APPLICABLE LAW. Vendor shall keep fully informed of, and comply with, federal, state, and local laws and ordinances and regulations which in any manner affect those employed by Vendor, or in any way affect the Goods or Services provided by Vendor pursuant to this Purchase Order. Public Works shall be performed in accordance with the provisions of the current edition of the Standard Specifications for Public Works Construction ("Greenbook"), unless otherwise specified in the Bid Documents. Except as provided in Section 12940 of the California Government Code, during Vendor's performance of the Agreement, Contractor shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical handicap, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex or sexual orientation, genetic information, gender, gender identity, or gender expression, in the

selection and retention of employees and subcontractors and the procurement of materials and equipment. Contractor shall also comply with the requirements of the Americans with Disabilities Act in the performance of the Agreement. Vendor represents and warrants that Vendor has obtained all necessary licenses to provide the Goods or Services and that such licenses are in good standing. Vendor further represents and warrants that the Services provided herein shall conform to all ordinances, policies, and practices of the City of Hemet.

13. INSURANCE. General Requirements. A. Minimum Coverage. Vendor must maintain the following types of insurance with coverage limits that meet the following minimum requirements (if applicable): (1) Commercial General Liability: Coverage shall be at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence/\$4,000,000 general aggregate; (2) Business Automobile Liability: Coverage shall be at least as broad as ISO Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 combined single limit. If Vendor or Vendor's employees will use personal autos in any way on this Project, Vendor must provide evidence of hired and non-owned auto liability coverage; (3) Workers' Compensation: \$1,000,000 per accident or disease; (3) Professional Liability: \$1,000,000 per occurrence/\$2,000,000 general aggregate; (4) Pollution Legal Liability: \$1,000,000 per occurrence/\$2,000,000 general aggregate, maintained for a period no less than three (3) years after completion of the services. B. COI/Endorsements. Vendor must file with City Certificates of Insurance and Endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by City. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days prior written notice to City. C. Bonds. Vendor shall provide the following Surety Bonds: (1) bid bond, (2) performance bond, (3) payment bond, and (4) maintenance bond. The Payment Bond and the Performance Bond shall be in a sum equal to the Agreement price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the agreement is for longer than one year a Maintenance Bond equal to 10% of the Agreement price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California. D. Subcontractors. Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Vendor shall ensure that City is an additional insured on insurance required from

subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13. E. Other Requirements. Vendor may be required to obtain such other insurance coverage as may be required by applicable law or by City.

14. PREVAILING WAGE. If the services to be provided pursuant to this Purchase Order is a public work as defined in California Labor Code Section 1720, this section shall apply. Vendor and all Subcontractors of any tier are required to pay all workers employed in the execution of the Work not less than the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations ("DIR") under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Hemet. The Director's determination of prevailing rates is available on-line at www.dir.ca.gov/dlsr/DPreWageDetermination.htm and is referred to and made a part hereof; the wage rates therein ascertained, determined and specified are referred to and made a part hereof as though fully set forth herein. Vendors and subcontractors on all public works projects shall submit electronic certified payrolls to the Labor Commissioner and City unless excused from this requirement. Vendor is aware of and stipulates that Vendor will also comply with the following sections of the California Labor Code: Section 1775 prescribing sanctions for failure to pay prevailing wage rates: A. Section 1776 requiring the making, keeping and disclosing of detailed payroll records and prescribing sanctions for failure to do so; B. Section 1777.5 prescribing the terms and conditions for employing registered apprentices; C. Section 1810 providing that eight hours of labor shall be a day's work; D. Section 1813 prescribing sanctions for violations of the provisions concerning eight-hour work days; E. Sections 1725.5 and 1771.1 requiring all general contractors and subcontractors to be registered with DIR. Registration can be accomplished through the DIR website by using this link: <http://www.dir.ca.gov/PublicWorks/PublicWorks.html>.

15. INTEGRATION; AMENDMENT; AUTHORITY. This Purchase Order represents the entire understanding of City and Vendor as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to the terms of this Purchase Order. The Purchase Order may not be modified except by Change Order or Addendum to Purchase Order. The individuals executing this Purchase Order and the instruments referenced herein on behalf of Vendor each represent and warrant that they have the legal power, right and actual authority to bind Vendor to the terms and conditions hereof and thereof.

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