

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

1. Acceptance. By acceptance of this purchase order, Contractor agrees to be bound by, and to comply with, these terms and conditions, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded. The terms of any proposal from Contractor 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 Contractor 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.

3. No Offshore Data. Except where Contractor obtains the County's prior written approval, Contractor 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.

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

6. Disallowance. In the event the Contractor receives payment for services under this order which is later disallowed by the County, the Contractor 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 Contractor under any contract with the County.

7. Termination

7.1 Termination for Cause - Cancellation. The County may, by written notice of default to the Contractor, terminate this order in whole or in part, should the Contractor 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 Contractor 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 Contractor 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 7.2, 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 Contractor, 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 Contractor 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 Contractor 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.

8. Conformance with Rules and Regulations. Contractor shall be in conformity with all applicable federal, State, County, and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices and certificates as are required. Contractor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation.

9. Company Permits and License. Contractor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to Customer (or, as used interchangeably in these Additional Terms and Conditions, "the County" or "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. Client 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. Contractor 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 Contractor 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. Each provider of services and supplies employing fifteen (15) or more full-time permanent employees, shall comply with the Affirmative Action Program for Contractors 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 by Contracting Officer Representative (COR) or from Client of San Diego Internet web-site (www.co.san-diego.ca.us).

12. Non-Discrimination. Contractor 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. Contractor shall not deny any person the full and equal enjoyment of, or impose less advantageous terms, or restrict the availability of, the 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, AIDS-related complex (ARC), or AIDS-related status (ARS), as those terms are defined in [Chapter 1, Section 32.1203, San Diego County Code of Regulatory Ordinances](#).

14. American With Disabilities Act (ADA) 1990. Contractor shall not discriminate against qualified people with disabilities in employment, public services, transportation, public accommodations and telecommunications services in

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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 Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. Contractor shall not utilize or allow its name to be utilized in any endorsement of any candidate for elected office. Neither the Agreement 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. Contractor agrees to comply with the lobbying ordinances of Client 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 Agreement 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 Agreement.

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 employees and Contractor employees shall assist in meeting this requirement.

19. As a material condition of this Agreement, Contractor agrees that Contractor and Contractor's employees, while performing service for Client, on County property, or while using County equipment:

19.1 Shall not be in any way impaired because of being under the influence of alcohol or a drug.

19.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.

19.3 Shall not sell, offer, or provide alcohol or a drug to another person; provided, however, that the foregoing restriction shall not be applicable to Contractor or an employee who as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.

19.4 Contractor shall inform all employees who are performing service for Client on County property or using County equipment of Client objective of a safe, healthful and productive workplace and the prohibition of drug or alcohol use or impairment from same while performing such service for Client.

19.5 Client may terminate for default or breach this Agreement, and any other Agreement Contractor has with Client, if Contractor, or Contractor's employees are determined by the Contracting Officer not to be in compliance with the conditions listed herein.

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

20.1 Board Policy B-67, which encourages the County's contractors 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

20.2 Board Policies B-53 and B-39a, which encourage the participation of small and disabled veterans' business enterprises in County procurements; and

20.3 Zero Tolerance for Fraudulent Conduct in County Services. Contractor 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 contractors in the administration of County programs and the provision of County services. Upon proven instances of fraud committed by independent contractors in connection with their performance under the Agreement, said Agreement shall be terminated.

21. Cartwright Act. Following receipt of final payment under the Agreement, Contractor 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 the Contractor for sale to the County under this Agreement.

22. Hazardous Materials. Contractor shall comply with all Environmental Laws and all other laws, rules, regulations, and requirements regarding Hazardous Materials, health and safety, notices, and training. Contractor 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. Contractor 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 Agreement. Contractor 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. Contractor 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.

23. Debarment and Suspension. As a potential sub-grantee of federal funds under this Agreement, Contractor certifies that it, its principals, its employees and its subcontractors:

23.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal Department or agency;

23.2 Have not within a 3-year period preceding this Agreement 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;

23.3 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

23.4 Have not within a 3-year period preceding this Agreement had one or more public transaction (Federal, State, or local) terminated for cause or default.

24. Conflicts of Interest. Contractor 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 Agreement. Contractor shall not employ any person having any such interest in the performance of this Agreement. Contractor 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 Agreement by associates or employees of County shall not relieve Contractor from any responsibility under this Agreement.

25. Prohibited Agreements. As required by [Section 67 of the San Diego County Administrative Code](#), Contractor certifies that it is not in violation of the provisions

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of Section 67, and that Contractor is not, and will not subcontract with, any of the following:

25.1 Persons employed by County or of public agencies for which the Board of Supervisors is the governing body;

25.2 Profit-making firms or businesses in which employees described in sub-section 25.1, above, serve as officers, principals, partners, or major shareholders;

25.3 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 by the Agreement, or (2) participated in any way in developing the Agreement or its service specifications; and

25.4 Profit-making firms or businesses in which the former employees described in sub-section 25.3, serve as officers, principals, partners, or major shareholders.

26. Limitation of Future Agreements or Grants. It is agreed by the parties to the Agreement that Contractor shall be restricted in its future Contracting with the County to the manner described below. Except as specifically provided in this clause, Contractor shall be free to compete for business on an equal basis with other companies.

26.1 If Contractor, under the terms of the Agreement, or through the performance of tasks pursuant to this Agreement, is required to develop specifications or statements of work and such specifications or statements of work are to be incorporated into a solicitation, Contractor shall be ineligible to perform the work described within that solicitation as a prime or subcontractor under an ensuing County Agreement. It is further agreed, however, that County will not, as additional work, unilaterally require Contractor to prepare such specifications or statements of work under this Agreement.

26.2 Contractor may not apply for nor accept additional payments for the same services contained in the Statement of Work.

27. Indemnity. County shall not be liable for, and Contractor 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 Contractor or its Contractors, licensees, agents, servants or employees, including Claims caused by the concurrent negligent act, error or omission of County Parties. However, Contractor 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.

28. Intellectual Property Indemnity. Contractor shall defend with counsel satisfactory to County, indemnify, and hold County harmless, at Contractor'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 Contractor's or County's opinion likely to be, held to infringe the rights of any third party, Contractor 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 Contractor's obligations under this Section 28, County shall have the right to employ counsel at its own expense for, and participate in the defense of, any claim.

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. Audit and Inspection

30.1 Contractor 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 Contractor'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.

30.2 At any time during normal business hours and as often as County may deem necessary, Contractor 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.

30.3 If any services performed hereunder are not in conformity with the specifications and requirements of this order, County shall have the right to require Contractor 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 Contractor 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 Contractor 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 Contractor 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.

31. Maintenance of Records. Contractor 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 Agreement unless County agrees in writing to an earlier disposition.

32. Location of Performance. Except where Contractor obtains the County's prior written approval, Contractor shall perform all of the Services only from or at locations within the geographic boundaries of the continental United States. Any County approval for the performance of Services outside of the continental 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 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 continental United States.

33. Display of Fraud Hotline Poster(s). As a material term and condition of this contract, Contractor shall:

33.1 Prominently display in common work areas within all business segments performing work under this contract County of San Diego Office of Ethics and Compliance Ethics Hotline posters;

33.2 Posters may be downloaded from the County Office of Ethics and Compliance <http://www.sdcounty.ca.gov/cao/oa.html>

33.3 Additionally, if Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

33.4 If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, the Contractor need not display the County poster;

33.5 In the event Contractor subcontracts any of the work performed under this contract, Contractor include this clause in the subcontract(s) and shall take appropriate steps to ensure compliance by the subcontractor(s).

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34. False Claims Acts: Contractor and all Subcontractors shall provide information on the Federal and State Claims Acts information annually to their employees providing services under this contract. The minimum acceptable information in may be found at www.cosdcompliance.org.

35. Information Privacy. Contractor shall comply with all applicable federal and State laws pertaining to the privacy and security of Protected Information including, but not limited to, California Civil Code Section 1798, California Civil Code Section 56.10, California Welfare and Institutions Code Section 827, and California Penal Code Section 1203.

36. Disentanglement Process. The Disentanglement process shall begin on any of the following dates: (i) the date County notifies Contractor that no funds or insufficient funds have been appropriated so that the Term shall be terminated pursuant to the Paragraph 7; (ii) the date designated by County not earlier than sixty (60) days prior to the end of any initial or extended term that County has not elected to extend pursuant to this Purchase Order; or (iii) the date any Termination Notice is delivered, if County elects to terminate any or all of the Services pursuant to Paragraph 7. Subject to Exhibit A Contractor's obligation to perform Disentangled Services, and County's obligation to pay for Disentangled Services, shall expire: (i) when funds appropriated for payment under this Agreement are exhausted, as provided in Paragraph 7; (ii) at the end of the initial or extended term set forth in this Purchase Order; or (iii) on the Termination Date, pursuant to Paragraph 7 (with the applicable date on which Contractor's obligation to perform the Services expires being referred to herein as the "Expiration Date"). Contractor and County shall discuss in good faith a plan for determining the nature and extent of Contractor's Disentanglement obligations and for the transfer of the Disentangled Services in process provided, however, that Contractor's obligation under this Agreement to provide all Disentangled Services shall not be lessened in any respect.

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

38. Warranty. Contractor agrees that any goods and/or services furnished under this order shall be covered by the most favorable commercial warranties Contractor 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.

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

40. 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.

41. Changes. County shall recognize no change to this order by Contractor without written approval.

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

43. 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.

[COMPANY NAME]

By: _____
[NAME, TITLE]

Date: _____

COUNTY OF SAN DIEGO

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

Date: _____

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SCOPE OF WORK

INSURANCE REQUIREMENTS

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 (Errors & Omissions) appropriate to the professional Consultant services provided by Contractor under this contract.

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: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$4,000,000.
- 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 (Errors & Omissions): \$2,000,000 per occurrence or claim with an aggregate limit of not less than \$4,000,000. This coverage shall be maintained for a minimum of three years following termination or completion of Contractor's work pursuant to the Contract.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. As a requirement of this contract, any available insurance proceeds in excess of the specified minimum limits and coverage stated above, shall also be available to the County of San Diego.

3. Self-Insured Retentions

Any 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 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 insurance policies are to contain, or be endorsed to contain, the following provisions:

A. Additional Insured Endorsement

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 are to be covered as additional insureds on the General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed by or on behalf of the Contractor. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO from CG 2010 11 85 or both CG 2010, CG 2026, CG 2033, or CG 2038; and CG 2037 forms if later revisions used).

B. Primary Insurance Endorsement

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For any claims related to this project, the Contractor's insurance coverage, including any excess liability policies, shall be primary insurance at least as broad as ISO CG 2001 04 13 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, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

C. Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

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 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 a copy of the policy declaration and endorsement pages along with the certificates of insurance and amendatory endorsements effecting coverage required by this clause. Policy declaration and endorsement pages shall be included with renewal certificates and amendatory endorsements submissions and 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:

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- 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.
- C. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least three 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 and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors. Such Additional Insured endorsement shall be attached to the certificate of insurance in order to be valid and on a form at least as broad as ISO from CG 2010 11 85 or both CG 2010, CG 2026, CG 2033, or CG 2038; and CG 2037 forms if later revisions used. If any sub contractor's coverage does not comply with the foregoing provisions, Contractor shall defend and indemnify the County from any damage, loss, cost, or expense, including attorneys' fees, incurred by County as a result of subcontractor's failure to maintain required coverage.

13. Waiver of Subrogation

Contractor hereby grants to County a waiver of their rights of subrogation which any insurer of Contractor may acquire against County by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by the Contractor, its employees, agents and subcontractors.