

PURCHASE ORDER TERMS AND CONDITIONS FOR SERVICES

1. This purchase order for services issued by the Big Bear Area Regional Wastewater Agency ("Agency") to the Contractor designated in the purchase order must be promptly accepted and acceptance is expressly limited to the terms of this order. Any addition or different terms in the Contractor's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. Contractor's performance of any portion of this order without return of the acknowledgment copy thereof, signed by Contractor, shall be considered acceptance by the Contractor.

2. Compensation. Contractor shall be paid on a time and materials or firm fixed fee basis, as may be agreed upon by the parties as described in this Purchase Order, or in documents attached hereto and hereby made a part hereof, within 30 days of receipt of invoice. If the work is performed on a time and materials basis, the invoice shall include a detailed description of the work performed, labor hours and materials.

3. Compliance with Law. Contractor shall comply with all applicable laws and regulations of the federal, state and local government. Agency shall assist Contractor, as requested, in obtaining and maintaining all permits required of Contractor by Federal, State and local regulatory agencies. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her Work. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws, if applicable. Contractor shall defend, indemnify and hold Agency, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors.

4. Standard of Care. The Contractor shall perform the work in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession practicing under similar conditions. Contractor shall also comply with State and Federal Environmental and Safety Regulations as they apply to the scope of work.

5. Insurance. Contractor shall take out and maintain: A. Commercial General Liability Insurance, of at least \$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01, naming Agency as an Additional Insured; B. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least \$1,000,000 per occurrence for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto); C. Workers' Compensation in compliance with applicable statutory

requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence; and D. Contractors providing professional services shall provide Professional Liability (Errors and Omissions) Insurance of at least \$1,000,000. Insurance carriers shall be licensed to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A:VII" rating according to the latest Best Key Rating unless otherwise approved by Agency.

6. Indemnification. The Contractor shall indemnify and hold harmless Agency, its officials, officers, agents and employees from and against any and all claims, liabilities, expenses or damages, including responsible attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, or patent infringement or fees for use of patented items, or any claim of the Contractor or a subcontractor for wages or benefits which arise in connection with the performance of the Contract, except to the extent caused or resulting from the negligence or willful misconduct of Agency. The foregoing indemnity includes, but is not limited to, the cost of prosecuting or defending such action with legal counsel acceptable to Agency and Agency's attorneys' fees incurred in such an action.

7. Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

8. Termination. Agency may terminate or abandon any portion or all of the work for any or no reason by giving 10 calendar days written notice to Contractor. In such event, Agency shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for the work. Agency shall pay Contractor the reasonable value as determined by Agency of any portion of the work completed prior to termination. Agency shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed work, and shall not be entitled to damages or compensation for termination of work. Contractor may terminate its obligation to provide further work under this Contract upon 30 calendar days' written notice to Agency only in the event of Agency's failure to perform in accordance with the terms of this Contract through no fault of Contractor.

9. Contract Terms. Nothing herein shall be construed to give any rights or benefits to anyone other than Agency and the Contractor. The unenforceability, invalidity or illegality of any provision(s) of this Contract shall not render the other provisions unenforceable, invalid or illegal. Notice may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the parties to the addresses set forth in the purchase order. Contractor shall not assign, sublet, or transfer this Contract or any rights under or interest in this Contract without the written consent of Agency, which may be withheld for any reason. Contractor is retained as an independent contractor and is not an employee of Agency. No employee or agent of Contractor shall become an employee of Agency. This is an integrated Contract representing the entire understanding of the

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parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. This Contract may not be modified or altered except in writing signed by both parties hereto.

10. Notice of Labor Dispute. Whenever Contractor has knowledge that an actual or potential labor dispute may delay performance under this purchase order, Contractor shall immediately notify and submit all relevant information to Agency.

11. Changes. By written notice, Agency may from time to time, direct work suspension or make changes in quantities, drawings, designs, specifications, place of delivery or delivery schedules, methods of shipment and packaging, and property and services furnished to Agency by Contractor. If such change causes an increase or decrease in the price of this purchase order or in the time required for performance, Contractor or Agency shall promptly notify the other party thereof and assert its claim for adjustment within thirty (30) days after the change is ordered, and an equitable adjustment shall be made. However, nothing in this clause shall excuse the Contractor from proceeding immediately with the purchase order as changed.