

GENERAL CONDITIONS - EZ FORM SERVICES CONTRACT

1.0 DEFINITIONS

Terms and conditions marked with an asterisk (*) shall be included in any subcontract placed under this contract. "Metro" means the Los Angeles County Metropolitan Transportation Authority. "Contractor" means the person, firm or corporation supplying the Work under the Contract, and includes all of its employees, representatives, subcontractors, and suppliers. "Work" means goods, equipment and materials, and all productive and operative efforts and services provided to generate the results specified, indicated or implied in the Contract to complete the project described in the Statement of Work; may also refer to Work in progress. "Modification" means a written order from Metro's Authorized Representative directing an amendment in the Work that is within the general scope of the Work described in the Statement of Work. Additional terms may be defined elsewhere in the Contract.

2.0 INDEPENDENT CONTRACTOR

Contractor is an independent contractor and is not an agent of Metro in the performance of the Contract, and represents that it is fully experienced and properly qualified, licensed, equipped, organized, and financed to perform the class of Work required for the Contract and shall maintain complete control over its employees and its Subcontractors and Suppliers of any tier. Contractor shall: (1) perform the Work in compliance with the terms of the Contract in accordance with its own methods and in accordance with professional standards or skill, care, and diligence adhered to by firms recognized for their expertise and knowledge in performing similar Work, and (2) be responsible for the professional quality, technical accuracy, completeness and coordination of the Work. Nothing contained in the Contract or any Subcontract awarded by Contractor shall create any contractual relationship between any Subcontractor and Metro. Metro reserves the right of prior approval of all subcontractors and may provide notice to Contractor to terminate any subcontractor for any reason, and Contractor shall terminate the subcontractor in accordance with the notice.

3.0 METRO AUTHORIZED REPRESENTATIVES

Metro or MTA means the Los Angeles County Metropolitan Transportation Authority (Metro), its predecessors, successors, or any successor in interest, or its Contracting Officer or other Metro Authorized Representative.

Metro's Authorized Representatives shall be its Contracting Officer, or persons designated by the Contracting Officer in a written Notice to Contractor. The authority of such designated Authorized Representatives will be limited as expressly set forth in the Notice.

4.0 ACCEPTANCE BY METRO

Metro shall have a reasonable time (but not less than 30 days) after receipt to inspect the Work tendered by Contractor. Metro may in its sole discretion reject all or any portion of Work tendered for acceptance if any portion does not comply in every respect

with each and every term and condition of this Contract. If Metro elects to accept nonconforming Work, in addition to its other remedies, Metro may deduct a reasonable amount from the Contract Price to compensate Metro for the nonconformity. Any acceptance by Metro, even if unconditional, shall not be deemed a waiver or settlement of any defect in the Work. Until accepted by Metro as provided above, Contractor shall bear all risk of loss and damage, unless such loss or damage results solely from the active negligence of Metro. Notwithstanding any acceptance by Metro, Contractor shall not be relieved of any obligation hereunder, including its obligations to complete any portion of the Work, the non-completion of which was not disclosed to Metro (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise); and Contractor shall remain obligated under all those provisions of this Contract which expressly or by their nature extend beyond and survive final acceptance of the Work.

5.0 ASSIGNMENT

Contractor shall not assign any right or delegate any duty without the prior written consent of Metro.

6.0 EXTENSION OF TIME

Metro will grant Contractor an extension of time to perform the Work if the delay is caused by circumstances which are both beyond its control and not foreseeable, but in no event shall Contractor be excused for any inability to obtain goods or services necessary for Contractor's performance or for failure to take reasonable precautions or actions to mitigate the delay.

7.0 WARRANTY

Contractor warrants that the Work shall (a) comply with each requirement of this Contract, (b) be of merchantable quality; (c) be fit for the particular needs and purposes of Metro as communicated to Contractor in the Statement of Work; and (d) not be restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties is breached, Contractor shall correct all defects and nonconformities, be liable for all direct, indirect, consequential and other damages suffered by Metro and any other persons, and defend and indemnify Metro from any claim asserted by any person resulting in whole or in part from such breach.

8.0 TERMINATION

Metro may, by written Notice to Contractor, terminate this Contract in whole or in part at any time, either for Metro's convenience or for default.

A. Default. If Contractor is in default of any provision of this Contract, Metro may terminate in whole or in part, and Contractor shall be liable for all damages arising out of the default. If in Metro's reasonable judgment a default can be cured, prior to termination for default Metro may issue a Cure Notice to Contractor. If Contractor fails to cure the default within five (5) days, or commence and complete the cure in accordance with such additional time limits as may be described in the Cure Notice, Metro may terminate for default.

B. Convenience. If Metro terminates all or any part of this Contract for Metro's convenience Metro will compensate Contractor to the extent provided and in accordance with the applicable portions of Part 49 of the Federal Acquisition Regulations. Metro will not compensate Contractor for any services not performed or goods not shipped by the date of such termination.

9.0 MODIFICATIONS

Metro may, direct changes in the Work by Modifications. If a Modification results in an increase or decrease in costs to be incurred or time needed to complete performance of this Contract, then Contractor shall submit a written proposed adjustment in the contract Price and/or schedule, and the parties shall make a fair and equitable adjustment.

10.0 RESOLUTION OF DISPUTES

The Parties shall use their best efforts to resolve disputes by negotiation or mutually agreed alternate dispute resolution (ADR) process such as mediation or arbitration. If the Parties are unable to resolve the dispute, it may be pursued by either party in the courts of Los Angeles County or in the Federal District Court for the Central District of California. All rights and remedies of Metro and Contractor shall be cumulative. Unless otherwise directed by Metro, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

11.0 INDEMNITY

Contractor shall indemnify, defend and hold harmless Metro, its officers, representatives and employees, from and against all liability, demands, claims, suits, losses and expenses whatsoever ("Liability"), including attorneys fees, whether direct or consequential, on account of (1) any loss, injury to or death of any person or persons or damage to any property (including without limitation all property owned by, leased to or used by either Contractor or Metro or both), or (2) any loss or damage to business or reputation or privacy of any person, arising in whole or in part from Contractor's performance hereunder, and regardless of whether such Liability results in whole or in part from the negligence or omission of Metro. Liability resulting solely from Metro's gross negligence, or willful misconduct is excluded from this indemnity.

12.0 APPLICABLE LAW

This Contract and the performance hereunder shall be construed according to the law of California. Contractor shall at all times comply with all applicable laws, regulations and codes.

13.0 NO WAIVER

Failure or delay of Metro to enforce at any time any provision of the Contract shall not be construed as a waiver thereof. No waiver by Metro of any breach of any provision of the Contract shall constitute a waiver of any other breach of such provision.

14.0 RESERVED

15.0 INSURANCE (RESERVED)

16.0 PAYMENT TO SUBCONTRACTORS *

A. Applicability. This Article applies only if Contractor has employed Subcontractors.

B. Requirements

1. Payments - Contractor shall pay each Subcontractor under this Contract for satisfactory performance of its Subcontract no later than ten (10) days after its receipt of each Payment from Metro.
2. Release of Retention to Subcontractors - Contractor shall pay to each Subcontractor all amounts it has retained from payments under the Subcontract within ten (10) days after the Subcontractor's Work is satisfactorily completed.
3. Delay in Payment – Contractor shall not delay payment beyond the ten (10) day time limit except for good cause.

C. Failure to Comply

If Metro determines that Contractor has failed to comply with this Article, Metro may give written notice to Contractor and Contractor's Surety describing the default, that the default shall be cured, and if the default is not cured as provided the Article entitled TERMINATION FOR DEFAULT in the GENERAL CONDITIONS of this Contract, the Contract may be terminated for default as provided therein, or Metro may exercise any other remedy it has under the Contract or Law.

17.0 SAFETY AND LOSS PREVENTION *

This Article is to be construed in its broadest sense for the protection of persons and property by the Contractor and no action or omission by Metro, the Contracting Officer, any Authorized Representative or any other person shall relieve the Contractor of any of its obligations and duties hereunder.

A. Metro's Safety Principles

1. Safety is a 24/7 priority
2. Safety is everyone's responsibility
3. Accidents and injuries are preventable
4. Working safely is a condition of employment
5. Training is essential for good safety performance
6. Management is accountable for safety

B. Contractor Responsibilities

The Contractor is responsible for:

1. Complying with all applicable safety Laws
2. Enforcing Worksite safety practices; and
3. The discovery, determination and correction of any unsafe conditions related to the Contractor's performance of the Work or Goods supplied by the Contractor on Metro property.
4. The Contractor shall cooperate and coordinate with Metro and with other Metro Contractors on safety matters and shall promptly comply with any specific safety instructions or directions given to the Contractor by Metro.

C. Safety Practices

1. The Contractor shall inform its personnel of Metro safety practices and the requirements of Metro's safety program identified in [Metro Safety Manual For Other Than Major Construction](#).
2. If any of the Contractor's personnel are required to visit any Worksites, the Contractor shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. The Contractor shall cooperate and coordinate with Metro and with other Metro Contractors on safety matters and shall promptly comply with any specific safety instructions or directions given to the Contractor by Metro.

18.0 ENGLISH REQUIREMENTS *

At all times, all Contractor personnel on site must have sufficient knowledge of the English language to comprehend safety related directions and requirements. At all times the Contractor shall have a lead representative on site who has sufficient comprehension of the English language to read, write, speak and understand all job related directions and discussions.

