

INSTRUCTIONS TO CONTRACTORS

1. The purchase order number on the City of Manassas (City) issued Purchase orders (“Purchase Order) must be shown on all invoices, delivery memoranda, bills of lading, packages, and/or correspondence; otherwise, clearance for payment may be delayed. All invoices shall be the same legal name of the Contractor as indicated on the purchase order.
2. The Purchase Order is a legal binding contract and may not be amended except in writing such as a formal change order from Purchasing.
3. The Contractor or Service Provider (collectively, referred to herein as Contractor) shall not accept credit card orders or credit card payment for work done under a Purchase Order. All invoices against the departments or offices of the City must be submitted directly to the “BILL TO” address specified on the Purchase Order. Invoices must be complete in detail. Render a separate invoice for each Purchase Order promptly upon completing shipment or performance of service. Unless otherwise authorized, all delivery related costs are included in the purchase price. If the freight terms on the Purchase order allow for freight to be pre-paid and added to the invoice, the original bill of lading must be attached. Payment will not be made until all items or services ordered are received, unless progress payments are authorized or partial shipment of items allowed. If shipment is made by freight or express, the original, properly receipted bill of lading must accompany invoice.
4. **W-9:** Prior to the beginning of the prompt payment of an invoice, City of Manassas shall have on file in the Accounting Division’s Office, 9027 Center Street, Room 303, Manassas, VA 20110 a current, completed W-9 “REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION” form. Contractors that are (1) individuals must provide their social security numbers and (2) proprietorships, partnerships, and corporations must provide their federal employer identification numbers.
5. Render any outstanding invoice statements to City of Manassas, 9027 Center Street, Room 303, Accounts Payable, Manassas, VA 20110.
6. To the extent Contractor has entered into a separate Agreement or the equivalent (“Agreement”), with the City for equipment, goods, or services provided pursuant to Purchase Order, the Terms and Conditions of the Agreement control. Any additional or different terms or conditions stated in any purchase order or other document issued by Contractor in connection with a City Purchase Order are expressly rejected by the City and will have no effect and will not, under any circumstances, be binding on the City unless otherwise agreed to in writing by the City.
7. The City welcomes and encourages the participation of small businesses, businesses owned by women and minorities, businesses owned by service disabled veterans and employment service organizations in procurement transactions made by the City.

GENERAL TERMS AND CONDITIONS

APPLICABLE TO ALL CONTRACTS, PURCHASE ORDERS, OR P-CARD TRANSACTIONS

1. **INDEMNIFICATION:** To the fullest extent of the law, the Contractor shall indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied against the Owner and expenses of every nature and description, including attorney’s fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if any recipient of a contract subcontracts for work, they will enter into a contract with such subcontractor(s) which indemnifies, defends, and holds harmless the Owner and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.

To the fullest extent of the law, the Contractor shall also indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner against all costs, including reasonable attorney’s fees, arising from liens encumbering the Owner’s Property filed by subcontractors, sub-subcontractors, material men, suppliers and all other persons and entities acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

Virginia is a Dillon Rule state. Unless specifically permitted by statute, indemnification or attempt to have the City “hold harmless” others are invalid and unenforceable or an impermissible waiver of the City’s sovereign immunity which may create potential future debt in violation of Virginia Constitutional and statutory requirements. **The City does not waive its sovereign immunity.**

2. **FAITH BASED ORGANIZATIONS: THE CITY DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS, AS THAT TERM IS DEFINED IN VIRGINIA CODE §2.2-4343.1**
3. **NOTICE OF REQUIRED DISABILITY LEGISLATION COMPLIANCE:** The City is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990. Specifically, the City, may not, through its Contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.
4. **DELAY AND DELIVERY FAILURE:** Time is of the essence. If delay is foreseen, the Contractor shall give immediate written notice to the Purchasing Division. Should the Contractor fail to deliver the proper item(s)/service(s) at the time and place(s) contracted for, or within a reasonable period of time thereafter as agreed to in writing by the Purchasing Division or should the Contractor fail to make a timely replacement of rejected items/services when so required, the City may purchase items/services of comparable quality and quantity in the open

market to replace the undeliverable or rejected items/services. The Contractor shall reimburse the City for all costs in excess of the contract price when purchases are made in the open market, or in the event that there is a balance the City owes the Contractor from prior transactions, an amount equal to the additional expense incurred by the City as a result of the Contractor's nonperformance shall be deducted from the balance as payment.

5. **FOB DESTINATION-FRIEGHT PREPAID AND ALLOWED:** Any goods to be delivered to a City location shall be coordinated with the using agency prior to delivery. Such goods shall be delivered F.O.B. Destination, freight prepaid, and allowed. COD deliveries shall be denied. The cost of freight, insurance, and all other delivery related costs shall be included in the cost of performing the work proposed in the price quoted unless proposed and accepted at the time of the quote.
6. **COMPLIANCE:** Goods and services must be delivered and rendered strictly in accordance with the applicable bid or quotation and shall not deviate in any way from the terms, conditions, prices, quality, delivery instructions, and specifications of the bid or quotation. All goods and/or services delivered and/or rendered shall comply with all applicable federal, state, and local laws.
7. **PATENT INFRINGEMENT:** Contractor agrees to indemnify City and hold it harmless from and against all liability, loss, damage and expense, including reasonable counsel fees, resulting from any actual or claimed trademark, patent or copyright infringement, or any litigation based thereon, with respect to any part of the goods covered by this order, and such obligation shall survive acceptance of the goods and payment therefore by the City.
8. **INSPECTION:** Equipment, materials, and/or supplies, delivered pursuant to a Purchase Order or P-Card Order shall be subject to inspection and test upon receipt and if rejected shall remain the property of the Contractor.
9. **CITY ORDER REQUIRED:** Responsibility will not be accepted for any equipment or goods delivered or services performed unless covered by a duly signed and authorized official Purchase Order or P-Card Order issued by the City.
10. **NET 30 DAYS:** In the absence of other contractual terms, payment shall be due thirty (30) days after receipt of proper invoice, or material/service, whichever is the later.
11. **EXEMPTION FROM TAXES:** The City is exempt from provisions of Virginia Sales and Use of Taxes and Federal Excise Taxes. Form St-12 will be issued upon request, if you do not have on file.
12. **BUSINESS PROFESSIONAL AND OCCUPATIONAL LICENSE REQUIREMENT:** In accepting a Purchase Order or P-Card Order, the Contractor agrees to conform to local business license tax liabilities where applicable. Questions should be referred to the Commissioner of the Revenue's Office (703) 257-8214
13. **ETHICS IN PUBLIC CONTRACTING:** The Ethics in Public Contracting provisions of §§ 2.2-4367 through 2.2-4377 of the Code of Virginia, as amended, are applicable to all contracts entered into by the City.
14. **PAYMENT TO SUBCONTRACTORS (VA CODE 2.2-4354):** On construction contracts, the Contractor is liable, in the event they have not received payment from the City for the work performed by a subcontractor on the contract, for the entire amount owed to such subcontractor and to pay such subcontractor within 60 days of the receipt of an invoice following satisfactory completion of the work for which the subcontractor has invoiced. The Contractor shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the contract terms. However, in the event the Contractor withholds all or a part of the amount invoiced by the subcontractor under the contract terms, the Contractor shall notify the subcontractor within 50 days of the receipt of such invoice, in writing, of their intention to withhold all or a part of the subcontractor's payment. The Contractor shall state the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier subcontractor responsible for the contractual noncompliance. Payment by the party contracting with the Contractor shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of that contractor's receiving payment for amounts owed to that contractor. Any provision in a construction contract contrary to this section shall be unenforceable. Nothing in this subsection shall be construed to (i) apply to or prohibit the inclusion of any retaining provisions in a construction contract or (ii) apply to contracts awarded solely for professional services where the City is contracting directly with an architectural and engineering firm.

Within seven (7) days after Contractor's receipt of amounts paid by the City for work performed by a subcontractor, the Contractor shall either: a) pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor; or b) notify the City and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment. The Contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item b. Unless otherwise provided under the terms of a Purchase Order or P-Card Order, interest shall accrue at the rate of one percent (1%) per month. The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as set forth above with respect to each lower-tier subcontractor. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of the City. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

15. **TERMINATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING FISCAL YEARS:** When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the order shall be canceled when existing funds are exhausted. The Contractor shall not be entitled to seek redress from the City, should the City Council fail to make annual appropriation for this Agreement.
16. **TERMINATION FOR CAUSE:** The City reserves the right to cancel the order/purchase, in part or in whole, without penalty, in the event the Contractor fails to provide the goods/services as agreed to in the order or quote, including failure to deliver on time. Any contract cancellation

notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

17. **TERMINATION FOR CONVENIENCE:** The City reserve the right to cancel the order/purchase, in part or in whole, without penalty, for any reason with three (3) days advance written notice. The parties will negotiate reasonable termination costs.
18. **CONTRACTUAL DISPUTE:** Unless otherwise provided in the Agreement, any Contractual Claims by the Contractor or anyone claiming on the Contractor's behalf against the City a raising under or relating to any agreement/contract between the City and Contractor shall only be resolved in accordance with the City of Manassas Public Procurement Policy, Section 7.
19. **TERMS AND CONDITIONS ACCEPTED:** These Terms and Conditions (including promised delivery or performance completion) are deemed accepted by Contractor and shall become part of the terms of the Purchase Order or P-Card Order unless the Purchasing Division is notified otherwise by Contractor within ten (10) days of Contractor's receipt of an order from the City. Failure to acknowledge the Terms and Conditions will also be deemed acceptance by Contractor.
20. **AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA (VA Code § 2.2-4311.2):** A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a contract with the City pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the contract. The City may void any contract/order with a business entity if the business entity fails to remain in compliance with the provisions of this section.
21. **GOVERNING LAW/FORUM:** This Agreement shall be governed and construed in all respects by its terms and by the laws of the Commonwealth of Virginia, without giving effect to its conflict of law provisions. Any judicial action shall be filed in the Commonwealth of Virginia, Prince William County Circuit Court, Contractor expressly waives any objection to venue or jurisdiction of the Prince William County Circuit Court, Manassas, Virginia. Contractor expressly consents to waive of service of process in an action pending in the Prince William County Circuit Court pursuant to Virginia Code Section 8.01-286.1.
22. **LICENSURE:** To the extent required by the Commonwealth of Virginia (see e.g. 54.1-1100 et seq. of the Code of Virginia) or the City, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to a Purchase Order or P-Card Order.
23. **ASSIGNMENT:** The Purchase Order or P-Card Order may not be assigned in whole or in part without the prior written consent of the Purchasing Division. The rights and obligations of the Contractor are personal and may be performed only by the Contractor. Any purported assignment that does not comply with this provision is void. The contract with the City is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.
24. **INSURANCE:** Contractors performing work on City's owned or leased property shall during the entire term of the contract (period of performance), maintain at a minimum, the following insurance coverage:

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED:

- A. Worker's Compensation – Statutory requirements and benefits
- B. Employers Liability - \$100,000
- C. Commercial General Liability - \$1,000,000 Combined Single Limit Bodily Injury and Property Damage Each Occurrence. These coverages are to be included Products/Completed Operations Liability, Personal Injury Liability, and Independent Contractor's Liability.
- D. Automobile Liability \$1,000,000

The City of Manassas shall be named as additional insured on Auto and General Liability Policies. Additional insurance coverage is required in accordance with prevailing contract referenced on the purchase order. The City of Manassas reserves the right to require the Contractor to provide evidence of required insurance coverage.

25. **USE OF FEDERAL FUNDS:** Any procurement which involves the expenditure or reimbursement of federal funds must comply with the standards set forth in the Code of Federal Regulations, 2 CFR §§ 200.318-327 including Appendix II to Part 200, as amended. Said requirements are incorporated herein as if stated in their entirety. In addition, the required federal terms and conditions set forth in the document titled "Federally Funded Purchase Order and P-Card Order Transactions -Additional Terms and Conditions" are incorporated as terms of the Purchase Order and P-Card Order. In the event of a conflict between the City's Terms and Conditions and the Federal Terms and Conditions, the Federal Terms and Conditions shall prevail.

THE FOLLOWING ARE MANDATORY COMMONWEALTH OF VIRGINIA PROVISIONS FOR CONTRACTS, INCLUDING PURCHASE ORDERS, AND P-CARD TRANSACTIONS, OVER \$10,000

EMPLOYMENT DISCRIMINATION BY CONTRACTORS PROHIBITED (VA CODE 2.2-4311)

1. During the performance of this Agreement, the Contractor agrees as follows:
 - A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, political affiliation, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably

necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - C. Notices advertisement and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The Contractor will include the provisions of the foregoing paragraphs A, B, and C in every subcontract or Purchase Order of over \$10,000, so that the provisions will be binding upon each subcontractor or Vendor.

DRUG-FREE WORKPLACE (VA CODE § 2.2-4312)

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or Purchase Order of over \$10,000, so that the provisions will be binding upon each subcontractor or Vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Agreement awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.