

# MARIN COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT REQUIREMENTS FOR CONTRACTORS

*The County of Marin is committed to developing and supporting diverse, equitable, and inclusive values within all aspects of its operations. By conducting business for or with the County, you are representing your commitment to rejecting inequities in employment, services, and practices by ensuring fair and equitable treatment for all.*

## 1. LICENSES

All Contractors and their Subcontractors shall be licensed at the time of the bid date by the Contractors State License Board of the State of California to perform the work, if such work lawfully requires such licensing.

## 2. TAXES

Contractors shall calculate payment for all sales, unemployment, old age pension and other taxes imposed by local, city, state or federal law, and shall include such expenses in the total amount bid.

## 3. CONTRACTOR REGISTRATION WITH CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS

A contractor or subcontractor may not be qualified to bid on or be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)).

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor must comply with all applicable California Labor Code provisions and related regulations, including, but not limited to the following: Labor Code Sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815; Title 8, Division 1, Chapter 8, Subchapter 4.5 of the California Code of Regulations (8 CCR 16451 et seq.).

This project is subject to the requirements of Division 2, Part 7, Chapter 1 of the Labor Code, as well as the obligation to furnish certified payroll records directly to the Labor Commissioner in accordance with 8 CCR 16461. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**\_\_\_\_\_ If initialed by Marin County Flood Control & Water Conservation District (the "District") representative, the above paragraph has been determined by the District to be inapplicable on the basis that the services to be provided under this contract do not require registration with the California Department of Industrial Relations pursuant to Labor Code Section 1771.1(a). It is the Contractor's responsibility to correct this determination if it believes the conclusion to be inaccurate.**

## 4. PAYING OF PREVAILING WAGE RATES

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates for Marin County where the work is to be done have been determined by the Director of the California Department of Industrial Relations. The General Prevailing Wage Rates are available at the Department of Public Works and are also available at the State of California Division of Labor Statistics and research web site at <http://www.dir.ca.gov/DLSR/PWD/index.htm>. Said rates are based on an eight (8) hour day, forty (40) hour week, except as otherwise noted and currently in effect. Existing agreements between the Building Trades and Construction Industry groups relate to wages, overtime, holidays and other special provisions shall be strictly observed. In compliance with the provisions of Section 1776 of the Labor Code of the State of California, as amended the Contractor and each of their Subcontractors shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice or worker employed by them in connection with the project. Said records shall be available for inspection at all reasonable hours, and copies

shall be made available to the employee or their authorized representative, the State Division of Labor Standards Enforcement, the State Division of Apprenticeship Standards, and the County.

The contractor or subcontractor shall, as a penalty to the Flood Control & Water Conservation District, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation Labor Code Section 1813 et seq.

Prevailing wages must be paid on Public Work projects, in most instances, if the cost exceeds \$1,000 (labor or labor & materials) and involves, but is not limited to: Construction, alteration, demolition, installation, repair work, maintenance and installation of modular furniture.

For additional information please visit the Department of Industrial Relations at <http://dir.ca.gov>

## 5. INDEMNIFICATION

To the maximum extent allowed by law and consistent with Civil Code Section 2782, Contractor shall effectively defend, indemnify, and hold harmless the County of Marin ("County") and District, their officers, agents, and employees, from any liability as a consequence of any willful act or negligent act or omission by the Contractor, any of the Contractor's employees or agents, or any subcontractor, and shall be responsible for any and all damage, injury, or death to persons, or damage to property. Contractor shall indemnify, defend and hold harmless County and District, their officers, agents, and employees from any and all claims, suits, actions, costs, and liability ensuing in connection with the performance of the contract, or failure to protect the safety of workers or the general public. The duty to defend shall include, but is not limited to, the payment of court costs, expert witness fees, and attorney's fees (whether or not handled "in-house" by the County) and shall further include attorney's fees for separate counsel if there exists an actual or potential conflict between County or District and Contractor.

Consistent with Civil Code Section 2782, this provision does not impose upon Contractor liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence, or willful misconduct of the County or District or their agents, servants, or independent contractors who are directly responsible to the County or District, or for defects in design furnished by those persons. In addition, consistent with Civil Code Section 2782, this provision neither imposes upon Contractor, nor relieves County or District of, liability arising from the active negligence of the County or District.

## 6. INSURANCE

The Contractor shall maintain a commercial general liability insurance policy in the amount of **one million dollars (\$1,000,000.00)**. If the policy has an annual aggregate, the limit of the annual aggregate must be at least twice the occurrence limit. Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of \$1,000,000.00. Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis only. **The County of Marin and The Marin County Flood Control & Water Conservation District** shall both be named as an additional insured on the commercial general liability policy. The insurer shall supply a certificate of insurance with endorsements signed by the insurer evidencing such insurance to County or District prior to commencement of work.

X **By initialing in the space provided, Contractor warrants that the services to be provided under this Contract do not require the use of any type of vehicle by Contractor.**

Nothing herein shall be construed as a limitation of Contractor's liability, and District agrees to timely notify Contractor of any negligence claim.

Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement. In addition to any other available remedies, may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

## **7. WORKERS' COMPENSATION**

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. If Contractor has employees, a copy of the certificates evidencing such insurance shall be provided to County or District prior to commencement of work.

Workers' Compensation insurance as required by the State of California and Employers Liability Insurance with limit of \$1,000,000. If any work shall be performed on, in, or under a body of water and governed by U.S. Longshoremen's and Harbor Workers Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. Contractor is responsible for determining if there is an exposure to such an injury and agrees to indemnify the County and District for all claims arising out of such an injury.

**X** By initialing in the space provided, Contractor warrants that no employees will be used in providing the services under this Contract.

## **8. NONDISCRIMINATORY EMPLOYMENT**

Contractor and/or any permitted subcontractor shall not unlawfully discriminate against any individual based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State, and local statutes, regulations and ordinances.

## **9. INTEGRATED PEST MANAGEMENT (IPM)**

The Contractor shall strictly adhere to the guidelines established in the County of Marin's IPM Ordinance and Policy, approved by the Board of Supervisors on July 21, 2009. All pesticide applications, regardless of material used, must be approved by the IPM Coordinator prior to use at any facility covered by the contract. Material for weed eradication and pest control shall be only those listed in the County of Marin's approved list and categories III and IV herbicides, non-corrosive, non-staining, and shall not leave a flammable residue. Pesticides shall be Environmental Protection Agency and California Department of Agriculture approved and used in strict accordance with manufacturer's label, recommendations, Federal, State, and local laws. All requests for application must be submitted to the IPM Coordinator four (4) calendar days prior to posting (described below). Requests must include a map of the area, material requested to be used and dates of application requested. All applications must be approved by the IPM Coordinator in writing and applicators must have a signed Pest Control Recommendation before application. All information regarding approved applications will be posted to the County of Marin IPM website. Four (4) calendar days prior to any pesticide application, any area to receive a pesticide application shall be posted to notify the public except those areas specifically noted in the Ordinance. Chemical application must use least toxic methods and be used as the last resort and only with written approval. Failure to comply with the Marin County IPM Ordinance & Policy may result in fines of up to \$200.00 per incident and/or contract termination. The IPM policy and Ordinance is available at the following website: <https://www.parks.marincounty.org/projectsplans/ipm>

List of Materials

Within thirty (30) calendar days after award, Contractor shall furnish to the IPM Coordinator for approval a list of fertilizers, herbicides, insecticides, and other chemicals that the Contractor proposes to use at each work site. Contractor shall also furnish a sample label and a MSDS for each product. Only County approved materials may be used.

#### Records

Contractor is required to maintain records of pest control activities. Contractor shall submit reports on a monthly basis to the IPM Coordinator if fertilizers, herbicides, insecticides, and other chemicals were used at the work site. Reports are to include the date, name of the pest, the site/location the work was done, name of technician performing the work, and corrective action taken. If a pesticide was used, the product name, the amount applied, and the area treated must also be reported.

### **10. STORMWATER POLLUTION PREVENTION**

In performing or delivering services at County and/or at Marin County Flood Control & Water Conservation District-owned, leased or managed property, or in performance of services and activities on behalf of County regardless of location, the Contractor shall implement any and all applicable Best Management Practices (BMPs) designed to prevent and reduce stormwater pollution in a manner pursuant to and consistent with the County's Stormwater Runoff Pollution Prevention ordinance (Chapter 23.18) and the Phase II Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004 and subsequent revisions and amendments thereto.

Guidance on current Best Management Practices is available from the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) through two documents: 1) "Minimum Control Measures for Small Construction Projects"; and 2) the "Municipal Field Operations and Maintenance Activities Best Management Practices Guidelines" handbook. Both documents are available upon request from Marin County Public Works, room 304 of the Marin County Civic Center or electronically on the MCSTOPPP website:

Minimum Control Measures for Small Construction Projects:

<https://mcstoppp.org/wp-content/uploads/2020/09/esc-measures-for-small-construction-projects.pdf>

Municipal Field O&M Activities BMP Guidelines: [https://mcstoppp.org/e11h\\_field-om-bmps-handbook/](https://mcstoppp.org/e11h_field-om-bmps-handbook/)

Under E.11 Pollution Prevention and Good Housekeeping (E.11.g and h).

### **11. LAWS GOVERNING WORK PERFORMED BY CONTRACTOR**

The contractor shall comply with all applicable federal, state and local laws, rules, regulations, and ordinances. These laws include, but are not limited to, bird and nesting laws such as the Federal Migratory Bird Treaty Act of 1918, the California Department of Fish and Wildlife codes 3503, 3503.5, 3513, and Marin County Code 23.16.010 for Pacheco Pond. Contractor is required to be familiar with and in compliance with all bird nesting buffer areas and breeding dates when work may negatively impact birds and nesting areas.

The parties stipulate that this agreement was entered into in the County of Marin, City of San Rafael, in the State of California. The parties further stipulate that the County of Marin, City of San Rafael is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

### **12. CANCELLATION OF CONTRACT**

**Without** CAUSE, the County of Marin may cancel this contract at any time with 30 days written notice to the supplier/contractor. **With** CAUSE, the County of Marin may cancel this contract at any time with five (5) days written notice to the Proposer. Cancellation for cause shall be at the discretion of the County of Marin and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The Successful Proposer may not cancel this contract without prior written consent of the County of Marin Purchasing Agent.

**13. TERMINATION FOR COVENIENCE**

The County reserves the right to terminate the contract at any time, for the convenience of the County of Marin, without penalty or recourse, by giving written notice to the Contractor at least 30 calendar days prior to the effective date of such termination. The Contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the County pursuant to the contract prior to the effective date of termination. Termination compensation cannot exceed the monthly service fee, and the termination nullifies the remaining months of the contract.

- 1. Termination for lack of funding: The County reserves the right to terminate any contract in any user agency if said agency loses funding during the term of the contract.
- 2. Termination for non-performance: The County may terminate the contract in whole or in part if delivery or performance is repeatedly unsatisfactory. Unsatisfactory performance includes but is not limited to:

**14. DEBARMENT AND SUSPENSION CERTIFICATION**

The Contractor under Title 49, Code of Federal Regulation, Part 29, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager: is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

**15. GENUINE BID**

The Undersigned hereby certifies that this bid is genuine and not sham or collusive, or made in the interest or on behalf of any person or business not herein named, and that Contractor has not directly or indirectly induced or solicited any other bidder to furnish a sham bid, or any other person or business to refrain from bidding, and that Contractor has not in any manner sought by collusion to secure an advantage over any other bidder.

**Contractor has read and understands the foregoing and agrees to be bound by all of the foregoing terms and conditions.**

\_\_\_\_\_  
**Contractor (Firm Name)**

\_\_\_\_\_  
**Authorized Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**DIR Registration Number**

\_\_\_\_\_  
**Expiration Date**