

TOWNSHIP OF LANGLEY
Purchase Order Terms & Conditions
for Supply and Installation

1. Definitions

The Contractor: The provider of Services, and any goods required for the provision of the Services, upon receipt of a Purchase Order from the Township.

The Township: The Corporation of the Township of Langley.

2. Modifications and/or Revisions

These Terms and Conditions constitute the entire contract between the parties for the Goods and Services covered by this Purchase Order. No revisions or modifications of the Terms and Conditions of this Purchase Order shall be binding on the Township unless given in writing by an authorized employee, Buyer or agent of the Township.

3. Assignment

This Purchase Order shall not be assigned, in whole or in part, by the Contractor without the prior written consent of the Township.

4. Changes

The Township reserves the right in its sole discretion to make changes, additions, or deletions to the scope or nature of the Services to be performed by the issuance of a written Change Order without invalidating this Purchase Order. In the event any change in the scope or nature of the Services is made by the Township, the price shall be adjusted accordingly by mutual agreement of the parties. No change in the Services shall be performed, effective, or paid for by the Township unless a written Change Order has been issued by the Township.

The time for performance and completion of the Services shall not be extended unless such change in time has been expressly agreed to by the Township in writing.

5. Sub-contracting

The Contractor will not sub-contract any of the Contractor's obligations under this Purchase Order to any person without prior written consent from the Township. No sub-contract, whether consented to or not, will relieve the Contractor from any obligations under this Purchase Order. The Contractor will ensure that any sub-contractor that is retained by the Contractor fully complies with this Purchase Order in performing the sub-contractor's obligations.

6. Waiver

Any failure of the Township at any time, or from time to time, to enforce or require the strict keeping or performance of any of the Terms and Conditions contained herein shall not constitute a waiver of such Terms and Conditions and shall not affect or impair such Terms or Conditions in any way or the Township's right at any time to avail itself of such remedies as the Township may have for any breach or breaches of such Terms and Conditions.

A waiver by the Township of any of these Terms and Conditions or of any breach by the Contractor of these Terms and Conditions is effective only if it is in writing and signed by the Township and is not a waiver of any other term or any breach.

7. Liens

Delivery of the Goods specified in this Purchase Order must be made free and clear of all liens and encumbrances within the time, in the manner, and to the destination stipulated. In the event of failure to meet this condition, the Township shall be entitled to the return of all moneys theretofore paid by the Township on account of this Purchase Order and in addition the Township may cancel this Purchase Order without liability and place it elsewhere and the Contractor shall be liable for any and all expenses or loss resulting from such failure.

8. Patents and Patent Fees

The Contractor warrants and guarantees that Goods delivered under this Purchase Order will not infringe any valid patent, industrial design, copyright or trademark, foreign or domestic, owned or controlled by any other corporation, firm or person, and the Contractor will indemnify and save harmless the Township against any and all liabilities, losses, damages, royalties, claims and expenses by reason of any claim, action or litigation arising out of the use or sale by the Township of any Goods supplied by the Contractor under this Purchase Order.

The Contractor shall pay all royalties and license fees and shall save the Township harmless from loss on account of suits or claims of infringement of patents in the performance of the Services.

9. Intellectual Property Warranty

The Contractor warrants that:

- (a) its performance of the Services and any Goods used in performing the Services are original and are owned by the Contractor or have been validly and properly licensed by the Contractor as to all necessary intellectual property rights;
- (b) no performance of the Services or Goods used in performance of the Services will or do violate or infringe upon any intellectual property rights of any other person or entity;

(c) the Work, Services and Goods used in performance of the Services do not contain any defamatory or obscene materials; and,
it will indemnify and save harmless the Township from any costs, liabilities, damages or expenses, including any reasonable legal fees and expenses arising directly or indirectly, out of any proven or alleged breach of these warranties.

10. Conflict of Interest

The Contractor will not provide any Services to any person in circumstances which, in the Township's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to the Township under this contract.

11. Freedom of Information and Protection of Privacy Act

All bids and subsequent information and/or materials received will not be returned and shall become the property of The Corporation of the Township of Langley and as such may be subject to disclosure provisions of the Freedom of Information and Protection of Privacy Act. The Township of Langley reserves the right to make extra copies for utilization during the evaluation process only.

12. Confidentiality

The Contractor will treat as confidential all information supplied to, obtained by or which comes to the knowledge of the Contractor or their sub-contractor(s) as a result of the performance of the Services, and not permit its disclosure without the Township's prior written consent except:

- (a) as required to perform the Contractor's obligations under this Purchase Order or to comply with applicable law; or
- (b) it is information that is generally known to the public.

13. Liability

If this Service is executed by more than one person, firm or corporation, it is understood and agreed that all persons, firms or corporations performing this Service are jointly and severally liable under and bound by the Terms and Conditions of this Purchase Order.

14. Indemnity

The Contractor will indemnify and save harmless the Township and its employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses ("**Claims**") that the Township or any of its employees or agents may sustain, incur, suffer or be put to at any time, either before or after the Service ends, which are based upon, arise out of or occur, directly or indirectly, from the Contractor's performance of the Service, including any Claims arising from or related to:

- (a) any act or omission by the Contractor or any of the Contractor's agents, employees, officers, directors, or sub-contractors in providing the Services;
- (b) any personal injury or damage to property caused by the Contractor; and
- (c) any liens for the Contractor's failure to pay for labour or materials, Workers' Compensation assessments, unemployment insurance, or Federal or Provincial taxes.

Neither party will be liable to the other party or any other entity for any consequential losses including loss or anticipated loss of profit, loss or anticipated loss of revenue, loss or anticipated loss of business opportunity or business interruption.

15. Insurance

The Contractor shall obtain and maintain insurance policies as per the attached instructions.

16. Independent Contractor

It is understood that this Purchase Order is strictly between the Contractor and the Township and the Contractor is an independent Contractor for the Township and no employment relationship, partnership, agency, or joint venture exists between the Township, the employees of the Contractor and/or its agents and/or their employees, and/or its Contractors and/or their employees. Any disputes between the Contractor and any of its employees and/or its agents and/or their employees and/or their Contractors and/or their employees shall be resolved by the Contractor with no involvement by the Township.

17. Prime Contractor

The Contractor agrees that it is the Prime Contractor for the purposes of the Workers' Compensation Board Occupational Health and Safety Regulations for the Province of British Columbia. The Contractor shall have a safety program acceptable to the Workers' Compensation Board and shall ensure that all Workers' Compensation Board safety rules and regulations are observed during performance of this contract, not only by the Contractor but by all sub-contractors, workers, material men and others engaged in the performance of the Services covered by this Purchase Order.

If applicable - The Contractor shall provide a signed copy of the attached "**Prime Contractor Designation Letter of Understanding**".

18. Submissions upon Award

The Contractor must, upon award and prior to the issue of a Purchase Order, provide the Township with the following documentation:

- (a) Certified copies of insurance as required by the Township
- (b) Current Township of Langley Business License
- (c) All applicable permits (paid by the Contractor)
- (d) WorksafeBC (Workers' Compensation Board) Letter of Good Standing

The Letter of Good Standing should be addressed to the **Township of Langley, 4700 – 224 Street, Langley, BC V2Z 1N4**

19. WHMIS Requirements

All products purchased by the Township are considered to be required for use in the workplace. Therefore full compliance for all labelling and information requirements of the Hazardous Products Act (WHMIS) for controlled products is required.

All shipments must be accompanied by a Material Safety Data Sheet (MSDS). Shipments of Goods received which do not comply with all of these requirements will be returned to the Contractor at their expense.

20. Workplace Requirements

The Contractor warrants that he shall comply with all laws, rules and regulations applicable to the location of the Services, in particular, but without limitation, those concerning safety and Workers' Compensation.

The Contractor will maintain the site in a clean and safe condition at all times, and will remove from the site and the surrounding properties any debris resulting from the performance of the Services upon the completion of the Services. Failure to do this will result in the cleaning and removal being instituted by the Township and the cost deducted from the amount owing the Contractor. Under no circumstances are the Township's containers to be used.

Unless otherwise stated by the Township, the Contractor shall carry out the Services in accordance with the Township's Codes and Standards or, where such a Code or Standard does not exist, shall carry out the Services consistent with standard industry practices. All materials used shall be new and strictly comply with relevant standards.

21. Qualified Personnel and Sub-contractors

The Contractor will perform the Work using its own professional personnel who have the qualifications, experience and capabilities to perform the Services, and those sub-contractors as may be listed on the Quotation Form and approved by the Township, and will bind all approved sub-contractors to the Terms and Conditions of the Purchase Order, as applicable to the sub-contractor's work. The Contractor will be as fully responsible to the Township for acts and omissions of sub-contractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.

If the Township reasonably objects to the performance, experience, qualifications or suitability of any of the Contractor's personnel or sub-contractors then the Contractor will, upon written request from the Township, replace such personnel or sub-contractors.

22. Permits

The Contractor shall comply with all codes, laws, regulations, and ordinances which concern the Services, and unless otherwise provided herein shall obtain and pay for all applicable permits, licenses, and certificates.

23. Use of Premises and Utilities

The Contractor shall confine the use of the premises for the performance of his Services as directed by the Township and shall comply with regulations which govern the building or institution where the Services are being performed. At the conclusion of the Services, the Contractor shall clean up and remove all debris and rubbish to the satisfaction of the Township.

The Township's supply of water and electrical energy will be available to the Contractor without charge. The Contractor, upon completion of the Services, shall remove temporary connections and extension of services, leaving the existing structures and services undamaged.

24. Force Majeure

Neither party shall be responsible for any delay or failure to perform its obligations under this Purchase Order where such failure or delay is due to fire, flood, explosion, war, embargo, governmental action, and terrorism, act of a public authority, Act of God or any other cause beyond its control, except labor disruption.

In the event a Force Majeure event occurs which delays or threatens to delay performance of its obligations by a party, that party shall give prompt notice to the other party and shall take all reasonable steps to eliminate the cause or ameliorate the potential disruption and consequent losses.

Should the Force Majeure event last for longer than thirty (30) days, the Township may terminate this Purchase Order, in whole or in part, without further liability, expense or cost of any kind.

25. Expediting the Work

At any time, upon notice from the Township, the Contractor shall make all reasonable efforts to expedite the Work and shall make all best efforts to ensure the timely and scheduled completion of the Services, at no additional cost to the Township.

Failure by the Contractor to do so, when required by the Township, may be grounds for termination of the contract, in addition to all other remedies which may be available to the Township, under this contract, at law or in equity.

26. Packing

All deliveries must be accompanied by a packing slip quoting the Purchase Order number, the delivery location and (if applicable) Tag Numbers.

Damages to any Goods resulting from improper packing will be charged to the Contractor. All packing charges are for the Contractor's account.

27. Responsibility for Goods

The Contractor shall be responsible for the Goods covered by this Purchase Order until they are delivered at the designated delivery point, regardless of the point of inspection; and the Contractor shall bear all risks of loss or damage to rejected Goods after notice of rejection.

28. Notices

Any notices required to be given regarding this Purchase Order shall be deemed to be duly given to the Township if sent by registered mail addressed to the **Township of Langley, Purchasing Department at 4700 - 224 Street, Langley, BC V2Z 1N4**, and to the Contractor if sent by registered mail addressed to the Contractor at the address set forth in the Quotation.

29. Inquiries

Contractor's inquiries to the Township during the performance of the Services should be directed to the assigned Township Representative overseeing the performance of these Services, or to the Purchasing Department.

30. Inspection and Acceptance

At any time during the performance of Services, the Township may, upon notice, inspect or test the Services being performed by the Contractor and the Contractor shall co-operate fully in any inspection or testing. In the event the Township, in its sole discretion, determines the Services or any portion thereof are deficient, defective, or non-compliant with this Purchase Order, the Contractor shall immediately resolve the deficiencies, defects, or non-compliance to the full satisfaction of the Township.

31. Settlement of Complaints Re: Work

If, in the opinion of the Township, the Services are improperly, defectively, or insufficiently performed, or being performed, the Township may, in writing, order the Contractor to re-execute or correct the Work in accordance with such Purchase Order; and if the Contractor fails to comply with such Purchase Order within ten (10) working days, the Township may, at any time thereafter, execute or cause to be executed the Purchase Order so given, and the Contractor shall, on demand, pay to the Township, all costs, damages, and expenses incurred in respect thereof or occasioned by reason of the non-compliance by the Contractor with any such orders; and if the Contractor fails to pay such costs, damages, and expenses, the Township of Langley may retain and deduct such costs, damages, and expenses from any amount then or thereafter payable to the Contractor under this Purchase Order.

32. Warranty

The Contractor warrants that the performance of the Services shall be free of all defects and deficiencies arising from faulty manufacture, installation, workmanship, or performance for a period of not less than twelve (12) months from the date of final approved completion.

If, in the sole opinion of the Township, defects or deficiencies appear during the warranty period, the Contractor shall immediately remedy the defect(s) or deficiency(ies) at no additional cost to the Township within a time fixed by the Township. If the Contractor fails to remedy or re-perform the Services within the time fixed by the Township, the Township may do so and the cost of same shall be borne by the Contractor.

33. Pricing, Currency and Taxes

Prices are to include all labor, materials, layout, traffic control, mobilization, and any other costs for the commencement, performance and completion of the Services as described in this Purchase Order.

Unless otherwise noted on the Purchase Order, all prices shall be in Canadian Funds and shall remain firm for the duration of the Purchase Order.

All applicable taxes are to be shown separately.

34. Invoices

All Invoices must quote the Purchase Order number, and should be mailed to the **Township of Langley, Accounts Payable Department, 20338 – 65 Avenue, Langley, BC V2Y 3J1**

35. Payment Terms

The Contractor shall be paid within 30 days after the submission by the Contractor of properly prepared invoices to the Accounts Payable Department for Services rendered and accepted.

Or, where determined as appropriate by the Township, the Township shall make progress payments once a month for work completed and materials on the site upon receipt of the Contractor's invoice. Except for the final payment, the Township shall holdback 10% of the amount of progress claims. The Township shall pay the holdback 55 days after completion of the Services upon receipt of the contractor's written claim for final payment accompanied by a Statutory Declaration stating that the Contractor has discharged every obligation and paid or satisfied every just claim incurred by him in connection to the Purchase Order, including claims by his sub-contractors, and upon receipt of clearance from the Workers' Compensation Board.

All invoice payments will be paid by electronic funds transfer therefore the Contractor must supply banking transfer information to Accounts Payable by e-mail to ap@tol.ca or forms may be found on the Township website at www.tol.ca/Doing-Business/With-the-Township.

36. Time

Time is of the essence in the performance of this Purchase Order.

37. Termination

- (a) The Township may terminate the whole or any part of this Purchase Order if the Contractor fails to make delivery of the Services within the time specified, or to perform any other provisions of this Purchase Order.
- (b) In the event the Township terminates this Purchase Order in whole or in part as provided in clause (a) the Township may procure supplies or Services similar to those so terminated, and the Contractor shall be liable to the Township for any excess costs for such similar Goods and/or Services.
- (c) The Contractor shall not be liable for any excess costs under clause (b) if failure to perform the contract arises by reason of strikes, lockouts, acts of God or acts of the Township.
- (d) The Township may terminate the whole or any part of this Purchase Order for any other reason, upon 10 days written notice of termination to the Contractor.

If the Township terminates this Purchase Order under clause (d), the Township will pay the Contractor all amounts owing under this Purchase Order for Services provided by the Contractor up to and including the date of termination plus all reasonable wind-up costs incurred by the Contractor. Upon payment of such amounts no other payment will be owed by the Township to the Contractor, and, for certainty, no amount will owe on account of lost profits relating to the portion of the Services not performed.

38. Default Notice

If the Contractor shall breach any provision hereof or shall become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings or make an assignment for the benefit of creditors, the Township shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of both) to terminate this Purchase Order by written notice to the Contractor, whereupon the Township shall be relieved of all further obligations hereunder except the obligation to pay the responsible value as determined by the Township of the Contractor's prior performance (not exceeding the quoted rate) and the Contractor shall be liable to the Township for all costs incurred by the Township in completing or procuring the completion of performance in excess of the price herein specified. The Township's right to require strict performance of any obligation hereunder shall not be affected by any previous waiver, forbearance or course of dealing. Any notice to be given by the Township under this Purchase Order shall be deemed given one day after deposit in the mail, postage prepaid, addressed to the Contractor at his address shown on the face hereof.

39. Suspension in Future

In the event the Contractor fails to provide quality service, equipment, or personnel as determined by the Township, in their sole discretion, the Contractor may be suspended and deemed ineligible for similar and/or all work under this and/or future competitions for contracts issued by the Township.

40. Governing Law

These terms and conditions for this Purchase Order will be governed by and construed in accordance with the laws of British Columbia.