

General Contractual Provisions

1. Contractual Relationship. It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the goods and services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, or employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, or employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for the withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

2. Authority to Contract. Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.

3. Compensation. County agrees to pay and Contractor agrees to accept as compensation for goods and services provided pursuant to this Agreement the fees set forth in Appendix B (Fees), attached hereto and incorporated herein by reference. These fees include all of Contractor's time, labor and equipment, travel, and all other expenses associated with the provision of goods, equipment and/or services, and shall be the sole compensation rendered to Contractor hereunder.

4. Invoicing and Billing. Contractor shall submit all invoices to Sedgwick County Finance, Accounts Payable. Invoices may be submitted electronically (AP_Invoices@sedgwick.gov), via fax (316.941.5127), or by mail to the following address: Sedgwick County Finance, Attention: Accounts Payable, 525 N. Main, Ste. 823, Wichita, Kansas 67203.

Invoices must include the following information:

- a. Invoice number
- b. Invoice date
- c. Supplier's name and address
- d. Customer's name and address
- e. Sedgwick County PO number (for PO purchases only)
- f. Sedgwick County contact name and department (for non-purchase order purchases)
- g. Details of the goods and/or services provided
 1. Include location address (if applicable)
- h. Goods quantity
- i. Prices of goods and/or services
- j. Total amount due
- k. Additional charges (i.e., freight) (must be listed as a separate invoice item)

Properly submitted invoices and/or billing statements will be paid within thirty (30) calendar days of receipt by County.

5. Warranties and Representation. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Agreement both as to time and quantities, with County reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or rendering of services cannot be maintained, Contractor must notify County immediately. Upon Contractor's failure to maintain delivery or otherwise perform hereunder, County reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which County may have pursuant to this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

6. Notification. Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

County: Sedgwick County's Division of Purchasing
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 823
Wichita, Kansas 67203

and

Sedgwick County Counselor's Office
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, Kansas 67203-3790

Contractor:

7. Termination.

A. Termination for Cause. In the event of any breach of the terms or conditions of this Agreement by Contractor, or in the event of any proceedings by or against Contractor in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Contractor on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County, and Contractor shall be liable to pay to County any excess cost or other damages caused by Contractor as a result thereof.

B. Termination for Convenience. County shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days' written notice. Upon receipt of such termination notice, Contractor shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

C. Reduction in Funds. It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

8. **Hold Harmless.** Contractor shall indemnify County, and its elected and appointed officials, officers, managers, members, employees and agents, against any and all loss or damage to the extent such loss and/or damage arises out of Contractor's negligence and/or willful, wanton or reckless conduct in the provision of goods and equipment or performance of services under this Agreement. This indemnification shall not be affected by other portions of the Agreement relating to insurance requirements.

9. **Liability Insurance.** Contractor agrees to maintain the following minimum limits of insurance coverage throughout the term of this Agreement:

Worker's Compensation Applicable State Statutory Employer's Liability	
Employer's Liability Insurance:	\$100,000.00
Contractor's Liability Insurance: Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	
Bodily Injury: Each occurrence Aggregate	\$500,000.00 \$500,000.00
Property Damage: Each occurrence Aggregate	\$500,000.00 \$500,000.00
Personal Injury: Each person aggregate General aggregate	\$500,000.00 \$500,000.00
Automobile Liability – Owned, Non-Owned, and Hired: Bodily injury each person Bodily injury each occurrence	\$500,000.00 \$500,000.00
Professional Liability Insurance	If required

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A-VIII and licensed to do business in the State of Kansas. It is the responsibility of Contractor to require that any and all approved subcontractors meet the minimum insurance requirements. Contractor shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

10. Entire Agreement. This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

11. Assignment. Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

12. Amendments. Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

13. Subcontracting. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, Contractor shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

14. Severability Clause. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

15. Waiver. Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

16. Force Majeure. Contractor shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

17. Order of Preference. Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Sedgwick County Contractual Provisions Attachment
- b. Written modifications and addenda to the executed Agreement
- c. This Agreement document

- d. Contractor's written response to the RFB/RFP (if applicable)
- e. The RFB/RFP (if applicable)

18. Environmental Protection. Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

19. Nondiscrimination and Workplace Safety. Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

20. Retention of Records. Unless otherwise specified in this Agreement, Contractor agrees to preserve and make available at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

21. Ownership of Data. All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by Contractor in relation to this Agreement shall be owned by County and shall be handed over and/or returned to County upon the expiration or termination of this Agreement. Contractor shall not release any such materials without written approval of the County.

22. Intellectual Property Rights. As applicable, all original software, software code, and/or intellectual property developed or created by County in relation to this Agreement shall remain the sole property of the County. Contractor shall surrender all original written materials, including, but not limited to any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, and any and all intellectual property to County upon the expiration or termination of this Agreement.

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