

# City of Longview

## Terms and Conditions

**THE PURPOSE OF THIS DOCUMENT IS TO PROVIDE** a contract for the products and/or services specified. By accepting a purchase order from the City of Longview (also called the "City" in this document), vendor agrees to the following:

**FUNDING:** Funds for payment have been provided through the City of Longview budget approved by the Longview City Council for this each year only. Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Any anticipated orders or other obligations that may arise past the end of the current City of Longview fiscal year will be subject to budget approval.

**SALES TAX:** The City of Longview is exempt by law from payment of Texas Sales Tax and Federal Excise Tax.

**CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in this Purchase Order.

**PATENTS/COPYRIGHTS:** The vendor agrees to indemnify and hold harmless the City of Longview from claims involving infringements of patents and/or copyrights.

**FREIGHT:** All delivery and freight charges (FOB City of Longview) are to be included in the purchase price.

**INDEMNIFICATION:** The vendor agrees and shall indemnify and hold harmless City, its officers, agents, employees, and elected officials from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all, but not limited to, expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or damage to any property, arising out of or in connection with the acts and/or omissions of vendor under this contract.

**PURCHASE ORDER:** The purchase order number must appear on all itemized invoices. The City of Longview will not be held responsible for any orders placed/delivered without a valid current purchase order number.

**EACH INVOICE** shall be numbered and show (1) name and address of the vendor, (2) name and address of receiving department and/or delivery location, (3) City of Longview Purchase Order number, and (4) descriptive information as to the services delivered.

**PAYMENT** will be made upon receipt and acceptance by the City of the item(s) ordered and receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Texas Government Code Chapter 2251.

**ITEMS**, if any, supplied under this purchase order shall be subject to the City of Longview's approval. Items found defective or not meeting specifications shall be picked up and replaced by the vendor at the next service date, at no expense to the City. If the item(s) is not picked up within one (1) week after notification, the item(s) may be removed at the vendor's expense at the discretion of the City.

**WARRANTY:** The vendor shall warrant that all items/services shall conform to the proposed specifications.

**REMEDIES:** To the extent applicable to the purchase to which this purchase order pertains, the vendor and the City of Longview agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code as adopted by the State of Texas.

**APPLICABLE LAW AND VENUE:** This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Longview, Texas. Venue for actions arising under this agreement in federal courts shall lie exclusively in the Eastern District of Texas, Tyler Division, and for state courts shall lie exclusively in Gregg County, Texas.

**EQUAL EMPLOYMENT OPPORTUNITY:** The vendor shall comply with all applicable provisions of regulations of the U.S. Department of Commerce issued pursuant to the Civil Rights act of 1964, in regard to nondiscrimination in employment because of race, religion, color, sex, handicap, or national origin. The vendor shall comply with all applicable Federal, State, and local laws, rules and regulations concerning equal employment opportunity.

**ASSIGNMENT:** The vendor shall not sell, assign, transfer or convey this contract, in whole or in part, without the prior written consent of the City of Longview.

**SILENCE OF SPECIFICATION:** The apparent silence of these terms and conditions as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. Interpretations of these terms and conditions shall be made on the basis of this statement.

**PROPRIETARY INFORMATION:** The vendor shall state any restrictions on the use of data that apply to the purchase to which this purchase order pertains. Proprietary information will be handled in accordance with applicable law, regulations and policy of this jurisdiction.

**INSURANCE:** The vendor shall meet the minimum insurance requirements of the Texas State Financial Responsibility Act for operation of vehicles(s) used in the delivery of item(s) purchased.

**DELIVERY:** FOB DESTINATION

**STORM WATER MANAGEMENT:** When required by the City's Stormwater Management Program or by other law, vendor shall implement best management practices (BMPs) to prevent stormwater pollution to the maximum extent practicable in accordance with the City of Longview's Stormwater Management Program. These BMP's include at a minimum:

- Performing regular inspections and maintenance on vehicles and equipment to prevent fluid leaks.
- Implementing standard operating procedures (SOPs) for spill prevention and cleanup that include at a minimum the following:
  - (1) arrival of the responsible person or response personnel hired by the responsible person at the site of the discharge or spill;
  - (2) initiating efforts to stop the discharge or spill; including maintaining onsite spill kits
  - (3) minimizing the impact to the public health and the environment;
  - (4) neutralizing the effects of the incident;
  - (5) removing the discharged or spilled substances; and
  - (6) managing the wastes.
- Training and equipping all employees who are present on City property in appropriate actions in accordance with the SOP.
- Providing upon request records of onsite inspections and BMP's.

**Storm Water Spill Kit:** When required by the City's Stormwater Management Program or by other law, vendor is required to have a storm water spill kit onsite at all times. Spill kit shall include at a minimum: Nitrile Safety Gloves, Eye Goggles, Shoe Covers, Sorbents, Handbook and Disposal Bag.

## Purchase Order for Services:

**INSURANCE:** In addition to all other applicable requirements of these terms and conditions, all vendors and subcontractors proposing to provide services to the City of Longview are required to have and maintain Workman's Compensation Insurance. The vendor and subcontractors shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of the Texas Labor Code for all employees of the vendor providing services to the City for the duration of the contract. A certificate of coverage must be provided within 5 business days of the acceptance of the purchase order from the City of Longview. If the certificate of coverage expires during the contract duration, the vendor must file a new certificate of coverage with the City of Longview showing coverage has been extended. Subcontractors, if used, must also provide proof of coverage to the City of Longview listing all persons providing services under this contract. The vendor shall retain all required certificates of coverage for the duration of the contract and for one year thereafter. The vendor shall notify the City in writing within ten (10) days of any change that materially affects the provision of coverage of any person providing services under the contract and required to be covered. The vendor shall post on each site notice, in the text, form and manner prescribed by the Texas Workman's Compensation Commission. The vendor shall contractually require each person with whom it contracts to provide service under the contract to:

1. Provide coverage for the duration of the contract term, based on proper reporting of classification codes and payroll which meets the statutory requirement of the Texas Labor Code for all employees providing services under the contract.
2. Provide to the City of Longview prior to that person beginning work under the contract, a certificate of coverage showing that coverage is being provided for the duration of the contract for all employees of the person providing services under the contract.
3. Provide prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period ends during the duration of the contract.
4. Obtain from each other person with whom it contracts, certificate and extensions necessary to provide for coverage to all persons providing services under the contract.
5. Retain all certificates on file for the duration of the contract and for one year thereafter.
6. Notify the City in writing by certified mail of any changes affecting provisions for coverage of any person providing services under the contract.
7. Contractually require each person with whom it contracts to perform as required in subparagraphs 1 - 7, with the certificates of coverage to be provided to the person for whom they are providing services.

By accepting this purchase order and providing a certificate of coverage, the vendor is representing to the City that all employees of the vendor who will provide services will be covered by workman's compensation for the duration of the contract. Failure to comply with any of these provisions is breach of contract by the vendor which entitles the City of Longview to declare the contract void if the vendor does not remedy breach within ten (10) days after receipt of notice of breach from the City.

**Additional insurance is required.** The vendor and subcontractors shall obtain and maintain for the full term of the contract the following insurance minimums written by a company licensed to conduct business in the state of Texas.

Employer's Liability -	Bodily Injury by Accident - \$250,000 each accident
	Bodily Injury by Disease - \$500,000 policy limit
	Bodily Injury by Disease - \$250,000 each employee

Liability and Personal Injury.)

\$500,000 each occurrence  
\$1,000,000 annual aggregate

Products and Completed Operations

\$500,000 each occurrence  
\$1,000,000 annual aggregate

Comprehensive Automobile Liability:

Bodily Injury and Property Damage  
Combined Single Limit: \$1,000,000 "CSL" each occurrence

The vendor and subcontractors shall include the City of Longview and its officers, agents, employees and elected officers as additional insured on all required Comprehensive General Liability and Comprehensive Automobile liability Insurance policies. Each insurance policy to be furnished by vendor shall include, by endorsement to the policy, a statement that a notice shall be given to the City of Longview by certified mail thirty (30) days prior to cancellation or upon any material change in coverage.

Note: The State of Texas has a "Financial Responsibility Law". The vendor shall be certain that coverage is provided which conforms to any specific stipulation in the law.

The vendor and subcontractors must provide to the City of Longview a certificate of insurance meeting all insurance coverage requirements contained in these terms and conditions. The certificate shall show City of Longview as certificate holder and must be provided within 5 business days of the acceptance of the purchase order from the City of Longview.