



Division of
Transportation

The County of DuPage
Division of Transportation
140 North County Farm Road
Wheaton, Illinois 60187-3978

CONTRACT AGREEMENT

AUTOMOTIVE EMERGENCY LIGHTING BETWEEN WHOLESALE DIRECT AND THE COUNTY OF DUPAGE

THIS Contract is entered this 11th day of May 2023, between the County of DuPage, Illinois a body corporate and politic, located at 421 North County Farm Road, Illinois, 60187-3978 (hereinafter referred to as the COUNTY), and WHOLESALE DIRECT *licensed to do business in the State of Illinois*, located at 5620 W. 65th Street, Chicago, IL 60638 (hereinafter referred to as the Contractor).

RECITALS

WHEREAS, the COUNTY requires the goods and/or services specified in Request For Quote (RFQ) #23-040-DOT for its Division of Transportation, located at 180 N. County Farm Road, Wheaton, Illinois 60187; and

WHEREAS, the Contractor is the vendor selected pursuant to the quote process and is willing to perform under the terms of the quote and this Contract.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree that:

GENERAL CONDITIONS

1.0 CONTRACT DOCUMENTS

- 1.1 This Contract includes all the following component parts, all of which are fully incorporated herein and made a part of the obligations undertaken by the parties:
 - 1.1.a General Conditions
 - 1.1.b Specifications
 - 1.1.c Quote Form (including Certification/Proposal, Signature Affidavit including Proposal Pricing)
 - 1.1.d Specifications (including any addenda, interpretations, and approved exceptions)
 - 1.1.e County Purchase Order
- 1.2 All documents are or will be on file in the office of the Division of Transportation, 140 North County Farm Road, Wheaton, Illinois 60187.
- 1.3 In the event of a conflict between any of the above documents, the documents control from top to bottom, i.e., "a" controls over "b".

2.0 DURATION OF THIS CONTRACT

- 2.1 Unless terminated as provided in the RFQ Invitation, the term of this Contract shall be a One (1) year period beginning on May 11, 2023 and continuing through April 30, 2024.
- 2.2 The Contract shall be subject to three (3) additional one-year terms provided there is no change in the terms, conditions, specifications, and prices and provided that such renewals are mutually agreed to by both parties. In no event shall the term plus renewals exceed four (4) years.

3.0 TERMINATION

- 3.1 The County may terminate based on the Contractor's breach or default. Unless the breach or default creates an emergency, as determined in the County's sole discretion, the Contractor shall be given notice and a five (5) day opportunity to cure before the termination becomes effective.
- 3.2 If the County terminates this Contract because of the Contractor's breach or default, the County shall have the right to purchase items or services elsewhere and to charge the Contractor with any additional cost incurred, including but not limited to the cost of cover, incidental and consequential damages, and the cost of re-quoting . The County may offset these additional costs against any sums otherwise due to the Contractor under this quote or any unrelated contract.
- 3.3 If the County of DuPage fails to appropriate funds to enable continued payment of multi-year Contracts the County may cancel, without termination charges provided Contractor received at least thirty (30) days prior written notice of termination.
- 3.4 Except as otherwise set forth in this AGREEMENT, either party shall have the right to terminate this AGREEMENT for any cause or without cause thirty (30) days after having served written notice upon the other party, except in the event of Vendor's insolvency, bankruptcy, or receivership, in which case termination shall be effective immediately upon receipt of notice.
 - 1.1.a Upon such termination, the liabilities of the parties to this AGREEMENT shall cease, but they shall not be relieved of the duty to fulfil their obligations up to the date of termination, or to pay for deliverables tendered prior to termination. There shall be no termination expense.
- 3.5 Upon termination of this AGREEMENT, all data, work products, reports and documents produced, because of this AGREEMENT shall become the property of the COUNTY. Further, Vendor shall provide all deliverables within fourteen (14) days of termination in accordance with the other provisions of this AGREEMENT.

4.0 QUOTE PRICES AND PAYMENT

- 4.1 The Contractor shall provide the required goods and/or services described in the Quote Specifications for the prices quoted on the Quote Form.
- 4.2 Original invoices must be presented for payment in the RFQ, including reference to the RFQ number and submitted to the correct address for processing. The County shall pay all invoices pursuant to 50 ILCS 505/1 *et seq.*, "Local Government Prompt Payment Act". Invoices containing charges for work subject to the Illinois Prevailing Wage Act (820 ILCS 130/0.01) are required to be accompanied by the applicable Certified Transcript of Payroll form(s) for acceptance. Payment will not be made on invoices submitted later than six months (180 days) after delivery of goods and any statute of limitations to the contrary is hereby waived.

5.0 LIENS, CLAIMS. AND ENCUMBRANCES

- 5.1 The Contractor warrants and represents that all the goods and materials ordered herein are free and clear of all liens, claims, or encumbrances of any kind.

6.0 AMENDMENTS

- 6.1 This Contract may be amended by mutual agreement.
- 6.2 All amendments will conform to State of Illinois Statutes and County procedures for Change Orders.

7.0 CONTRACT ENFORCEMENT - ATTORNEY'S FEES

- 7.1 The County is required to take legal action to enforce performance of any of the terms, provisions, covenants and conditions of this Contract, and by reason thereof, the County is required to use the services of an attorney, including the States Attorney, then the County shall be entitled to reasonable attorney's fees and all expenses and costs incurred by the County pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.

8.0 CONFIDENTIAL INFORMATION AND COUNTY PROPERTY

8.1 It is agreed that any and all specifications, drawings, or data furnished by County of DuPage shall (1) remain the County of DuPage's sole and exclusive property; (2) be considered and treated by Contractor as County of DuPage confidential information, and not be copied, reproduced or duplicated in any manner or disclosed to any person or party, except as is necessary in the performance of this Contract and (3) be returned upon request.

9.0 NON-DISCRIMINATION

9.1 The Contractor, its employees, and subcontractors, agree not to commit unlawful discrimination and agree to comply with applicable provisions of the Illinois Human Rights Act, the U.S. Civil Rights Act and Section 504 of the Federal Rehabilitation Act, and rules applicable to each.

10.0 VENDOR INFORMATION REPORTING ACT

10.1 In accordance with the Vendor Information Reporting Act (35 ILCS 200/18-50.2), the COUNTY is required to collect and electronically publish data from all contractors and subcontractors as to: (1) whether they are a minority-owned, women-owned or veteran-owned business as defined by the Business Enterprise for Minorities, Women and Persons with Disabilities Act (30 ILCS 575/1 *et seq.*); and (2) whether the contractors or any subcontractors are self-certifying or whether they hold certifications for those above-referenced categories. If self-certifying, the contractors and subcontractors shall disclose whether they qualify as a small business under federal Small Business Administration standards. In compliance with the Vendor Information Reporting Act, within 60 calendar days of the COUNTY's award of the contract for work covered under this CONTRACT, the awarded contractor, and each subcontractor, must complete the Awarded Vendor Questionnaire(<https://mwv.dupageco.org/>).

11.0 PREVAILING WAGE

11.1 Prevailing rate of wages as determined by the County or the Illinois Department of Labor ("IDOL") may apply to some, or all work performed on this Contract and paid to all laborers, workers and mechanics performing work under this Contract. It is the Contractor's responsibility to comply with these requirements and to assure compliance by subcontractors and/or lower tier subcontracts as required by IDOL. State statutes regarding Prevailing Wage and the current wage rates are available online at www.state.il.us/agency/idol/rates/rates. Contractors must retain payroll records for five (5) years and make those records available for inspection by the County or IDOL. Contractors must submit monthly certification of payroll records. Certified Transcript of Payroll forms may be downloaded from the Contractor Forms and Information page on the County's Procurement Division website at <https://www.dupageco.org/Finance/Procurement/1316/>.

11.2 A determination by the Illinois Department of Labor of debarment for violation of the Prevailing Wage Act shall result in the Contractor being automatically deemed non-responsible for the period of debarment without further proceedings by the County.

11.3 This Contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 *et seq.* ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the "prevailing rate of wages" (hourly cash wages plus the amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor publishes the prevailing wage rates on its website at: <http://www.state.il.us/agency/idol/rates/rates.HTM>. The Department revises the prevailing wage rates, and the contractor/subcontractor has an obligation to check the Department's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply.

12.0 PREVAILING WAGE PRICE ADJUSTMENT

12.1 The contractor is required to pay the current prevailing wage, which may be adjusted during the term of the Contract or renewal, with no adjustment in the contract price. In the event the parties agree to renew the contracted services for additional periods, the labor prices stated in the quote may be adjusted to the then-current prevailing wage, and such adjustment shall govern the Contract price during the renewal period. No adjustment will be made to the amount of mark-up.

13.0 INDEMNITY

13.1 The Contractor shall, at all times, to the extent permitted by law, fully indemnify, hold harmless, and defend the County and its officers, agents, and employees from and against any and all claims and demands, actions, causes of action, and cost and fees of any character whatsoever made by anyone whomsoever on account of or in any way growing out of the performance of this Contract by the Contractor and its employees, or because of any act or omission, neglect or misconduct of the Contractor, its employees and agents or its subcontractors including, but not limited to, any claims that may be made by the employees themselves for injuries to their person or property or otherwise, and any claims that may be made by the employees themselves or by the Illinois Department of Labor for the Contractor's violation of the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.)

13.2 Nothing contained herein should be construed as prohibiting the County, its officers, agents, or its employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, actions, or suits brought against them. The Contractor shall likewise be liable for the cost, fees and expenses incurred in the County's or the Contractor's defense of any such claims, actions, or suits.

13.3 The Contractor shall be responsible for any damage incurred as a result of its errors, omissions or negligent acts and for any losses or costs to repair or remedy construction as a result of its errors, omissions or negligent acts.

13.4 The indemnification described above shall not be limited by reason of the enumeration of any insurance coverage herein provided, and indemnification shall survive the termination of the Contract.

14.0 NOTICE OF LAWSUIT

14.1 Within 5 days of service of process, the County shall notify the Contractor of any lawsuit involving the indemnification provided for above. Failure to provide such notice shall not relieve the Contractor of its obligation to provide indemnification. However, the County shall be responsible for any additional costs of defense incurred due to their failure to provide such notice within 60 days.

15.0 SEVERABILITY CLAUSE

15.1 If any section, paragraph, clause, phrase, or portion of this Contract is for any reason determined by a court of competent jurisdiction to be invalid and unenforceable, such portion shall be deemed separate, distinct and an independent provision, and the court's determination shall not affect the validity or enforceability of the remaining portions of this Contract.

16.0 TRANSFER OF OWNERSHIP OR ASSIGNMENT

16.1 The terms and conditions of this Contract shall be binding upon and shall endure to the benefit of the parties hereto and their respective successors and assigns. Prior to any sales or assignments, the County of DuPage must be notified and approve same in writing.

17.0 FORCE MAJEURE

17.1 Each party to this Contract shall not hold the other liable for an extraordinary interruption of events, or damages caused by a natural event that cannot be reasonably foreseen or prevented, i.e., droughts, floods, severe weather phenomena, et cetera.

18.0 GOVERNING LAW

18.1 This Contract shall be governed by the laws of the State of Illinois both as to interpretation and enforcement. The venue for all disputes will be exclusively in the circuit court for the Eighteenth Judicial Circuit in DuPage County, Illinois and that Illinois law will control.

19.0 ENTIRE AGREEMENT

19.1 This Contract, including the documents listed in 1.0, contains the entire agreement between the parties.

19.2 There are no covenants, promises, conditions, or understandings; either oral or written, other than those contained herein.

19.3 Notwithstanding the foregoing, nothing contained herein shall be deemed to constitute a waiver of any defenses or immunities otherwise available to the County.