

**HAYWARD UNIFIED SCHOOL DISTRICT
PURCHASE ORDER TERMS & CONDITIONS**

- Ship all merchandise PREPAID to indicated destination. Add freight charges to your bill only if authorized IN WRITING on the purchase order. No C.O.D. charges permitted.
- Enclose packing list showing purchase order number with all deliveries. No charges shall be made for cartons, wrapping, packing, boxing, crating, delivery, drayage or other costs unless expressly authorized on this order.
- Shipments not received by date required may be cancelled by Purchaser without penalty.
- The Hayward Unified School District is responsible only for the goods or services ordered on the Purchase Order form and signed by an **authorized agent** of the District. The District is not responsible for orders made without a purchase order.
- All invoices shall have the purchase order number and vendor's name shown clearly thereon. Labor and materials shall be itemized. All discounts, prices, and amounts shall be clearly shown.
- No changes to this order will be allowed unless authorized by the District's Purchasing Department.
- Seller shall neither assign any right nor delegate any duty without the prior written consent of the District's Purchasing Department.
- All delivered goods, services, and charges must be in accordance with the bids or specifications upon which this order is placed. Do not substitute. The District reserves the right to cancel this order or adjust any claim thereunder if merchandise, delivery, services rendered, or charges submitted are not in accordance with the bids or specifications.
- Termination for Convenience. At any time and without need for cause, the District may terminate this Agreement by delivering written notice of termination to the Contractor. The Contractor shall be deemed to have received written notice either upon actual receipt or five days after the District mails the notice to the address of the Contractor specified in Section 26, whichever occurs first. The termination shall take effect immediately upon receipt of the written notice, unless the notice specifies a later date as the effective date of the termination. As of the effective date of the termination, the Contractor shall cease all work pursuant to this Agreement. The District and the Contractor expressly agree that, in the event of termination for convenience, the District will be required to compensate the Contractor only for services satisfactorily rendered prior to the effective date of termination.
- Termination for Cause. At any time it believes it has sufficient cause, the District may deliver written notice to the Contractor of the District's intent to terminate this Agreement for cause. The Contractor shall be deemed to have received the written notice either upon actual receipt or five days after the District mails the notice to the address of the Contractor specified, whichever occurs first. The written notice shall set forth in reasonable detail the cause(s) underlying the District's intent to terminate this Agreement. Sufficient cause for termination shall include: (a) any material breach of this Agreement by the Contractor, including any failure by Contractor to reasonably perform its obligations pursuant to this Agreement; (b) any act by Contractor exposing the District to liability for, or resulting in District liability for, personal injury or property damage; (c) any act by Contractor exposing the District to liability for, or resulting in District liability for, fraudulent or other wrongful acts; and (d) if Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Contractor's insolvency. This Agreement shall terminate fifteen days after receipt by the Contractor of the written notice, unless Contractor has corrected or eliminated the matters forming the cause(s) for termination and provided evidence thereof satisfactory to the District, or Contractor has made arrangements for the correction or elimination of such matters satisfactory to the District. In the event of such termination for cause, all work and services of the Contractor provided prior to the termination shall be the property of the District, and the District may complete the services required under this Agreement by any other means the District determines reasonable. The Contractor shall be liable for all damages incurred by the District as a result of the Contractor's breach of its obligations pursuant to this Agreement, acts exposing the District to liability, and/or acts resulting in District liability. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- Buyer may cancel the undelivered portion of any purchase order without cause upon written notice of cancellation to Seller. Upon receipt of notice of cancellation, Seller shall immediately stop work on the undelivered portion of the affected Purchase Order and make no further commitments for materials or services to complete such affected Purchase Order.
- All materials shall conform to the provisions set forth in Federal, State, County and City laws for their production, handling, and labeling. When using Federal Funds, vendors and contractors will be required to comply with certification requirements as called for in the Code of Federal Regulations.
- Vendor/Contractor must abide by all Federal, State, County and City laws governing services under the bid, contract, or purchase order upon which this order is placed.
- Vendor shall sign and submit required contract provisions for non-federal entity contracts under federal awards when required by the District. (CFR Part 200)
- When a discrepancy exists between the bid price and the order price, the bid price is the legally binding price.
- All items are taxable for State, County & City taxes.
- When applicable, Material Safety Data Sheets (MSDS) must be included with the order. If requested MSDS are not delivered with order, payment will be delayed pending receipt of sheets.
- The Hayward Unified School District is an equal opportunity employer. The acceptance of this purchase order by a supplier of goods and services is a certification that such supplier is an equal opportunity employer and does not discriminate against any employee or applicant of employment because of race, religion, color, national origin, ancestry, disability, medical condition, marital

status, or sex as outlined in the California Government Code Section 12940 and all provisions of Executed Order 11246. In addition, the supplier agrees to require like compliance by all subcontractors employed on the work by him.

- Seller/Contractor warrants that all articles furnished shall be free from defects of material and workmanship, that all articles furnished shall be fit and sufficient for the purpose intended, and shall save, keep, bear harmless and fully indemnify the Buyer and any of its officers, employees, or agents from all damages, or claims from damages, costs or expenses in law or equity that may arise from Buyer's normal use.
- The Supplier shall hold harmless and indemnify the District, its officers, agents and employees from every claim, demand, or liability which may be made by reason of: A) Any injury to property or person including death, sustained by the Supplier or by any person, firm or corporation employed by the Supplier directly or indirectly upon or in connection with the service hereunder; however caused; and B) Any injury to property or person, including death, sustained by any firm or corporation, caused by any error, omission, neglect, or torturous act of the Supplier, its officers, agents or employees, upon or in connection with the services hereunder, whether the injury or damage occurs upon or adjacent to the premises whose services hereunder are performed; and C) the Supplier, at its own expense, cost, and risk, shall defend any and all actions, suits, or other proceedings, that may be brought or instituted against the District on any such claim, demand, or liability, and pay or satisfy any judgment that may be rendered against the District, its officers, agents, or employees in any such action suit, or other proceedings as a result thereof.
- **Public Works including Facility Maintenance Agreements** are subject to the regulations established in SB 854 (2014) and SB 96 (2017) for Public Works Projects greater than \$25,000 and Maintenance Projects greater than \$15,000:
 - No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) 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 (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
 - This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
 - [To be determined]: The awarding body must post or require the prime contractor to post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d) for the notice that previously was required for projects monitored by the CMU.)
- Prevailing Wages apply when a public works contract exceeds \$1,000.
- Note: If contract exceeds \$25,000, per Civil Code Section 3247, Contractor shall provide a Payment Bond.

The above requirements are not all inclusive. The Contractor/Vendor is responsible for maintaining knowledge of laws required to do business with public school districts in California.

CALIFORNIA AIR RESOURCES BOARD (CARB): <https://ww2.arb.ca.gov/>

All projects awarded after January 1, 2024, are subject to the In-Use Off-Road Diesel-Fueled Fleets Regulation found at: <https://ww2.arb.ca.gov/our-work/programs/use-road-diesel-fueled-fleets-regulation>

Contracting requirements apply to both prime contractors and public works awarding bodies:

The Regulations apply to all public agencies that award a contract for the erection, construction, alteration, repair, removal, or improvement of any public structure, building, road, or other public lands, property, or improvement of any kind.

Contracting requirements for both prime contractors and public works awarding bodies are as follows:

- For a project involving the use of vehicles subject to the regulation, the prime contractor or public works awarding body must obtain copies of the valid Certificate of Reported Compliance (Certificate) for the fleets and subcontractors that are listed in the contract.
- Certificates must be obtained prior to awarding or renewing a contract.
- Noncompliant fleets, i.e., those without a valid Certificate, are prohibited from being contracted.
- Copies of the Certificates must be retained for three years after the project is complete.
- Records must be provided to CARB within five business days, upon request.

Additional Prime Contractor Obligation [Section 2449(j)] requirements that must be complied with are outlined at: <https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-contracting-requirements>

Certificates of Reported Compliance ("CRC") must be included with proposal and are incorporated into this contract.

These Standard Purchase Order Terms and Conditions only apply to transactions that do not have a written agreement executed by both parties.