

**COOPERATIVE PURCHASING
AGREEMENT AND
PARTICIPATING ADDENDUM**

This Cooperative Purchasing Agreement and Participating Addendum ("Agreement") is made and entered into June 22, 2021 ("Effective Date"), by and between Contra Costa County, a political subdivision of the State of California, ("County") and Amazon.com Services LLC, a Delaware limited liability company ("Amazon").

WHEREAS, The U.S. Communities Government Purchasing Alliance ("USCGPA") (now Omnia Partners) issued a request for proposals for an online marketplace for the purchases of products and services on behalf of Prince William County Public Schools ("PWCS"). The USCGPA posted the solicitation on its website, Onvia/DemandStar, Prince William County Public Schools, and Canadian MERX Public Tenders on September 14, 2016, through October 14, 2016. USCGPA also posted the solicitation in the Oregon Daily Journal of Commerce on September 16, 19, 21, 23, 26, 28, and 30, 2016, in the Hawaii Tribune-Herald on September 17 through September 23, 2016, and in the Gainesville Times and Prince Williams Times on September 21, 2016, all newspapers of general circulation. As the deadlines for proposals was October 14, 2016, the advertisements occurred at least ten days before the proposal due date.

WHEREAS, On January 29, 2017, based on the results of the competitive process, PWCS, the administering agent on behalf of USCGPA, entered into a contract with Amazon.com Services LLC and entitled "Online Marketplace for the Purchase of Products and Services" identified as Amazon Business Contract No. R-TC-17006 (Attachment A, and referred to herein as the "Master Contract").

WHEREAS, the County desires to contract with Amazon for purchases of materials, supplies, and other items made available to PWCS under the Master Contract under the same terms as PWCS. Amazon desires to contract with the County on such terms.

AGREEMENT

Now, therefore, Amazon and the County agree as follows:

1. **Term.** The term of this Agreement begins on the Effective Date, and it expires on June 21, 2024. If the Master Contract is terminated during the term of this Agreement, Amazon shall provide the County notice of such termination in a manner that Amazon deems reasonable, and Amazon shall continue satisfying its obligations under this Agreement for the remainder of the then-current term of this Agreement as if the Master Contract were still in effect, unless otherwise provided for in the notice of termination.
2. **Payment Limit.** The County's total payments under this Agreement shall not exceed \$700,000 ("Payment Limit"). Nothing in this Agreement obligates the County to make any purchases, or any particular volume of purchases, under this Agreement. Notwithstanding the foregoing, the County is obligated to fulfill its payment obligations for purchases made, even if total payments exceed \$700,000. Contractor retains the right to enforce the terms of the Master Agreement, including enforcing the County's payment obligations.



3. **Incorporation of Master Contract; Changes to Master Contract.** For the purposes of this Agreement, the terms of the Master Contract are incorporated in, and made a part of, this Agreement, except for those terms of the Master Contract that are modified by this Agreement. Each reference to “Prince William County Public Schools” and “PWCS” is hereby replaced with “Contra Costa County” and “County,” respectively. If there is any conflict between the terms of this Agreement and the terms of the Master Contract, the terms of this Agreement shall prevail. The Master Contract includes and incorporates the “Prince William County Public Schools (PWCS) General Terms and Conditions” (“General Terms”). In recognition that the County is a political subdivision of the State of California, Amazon and the County agree to modify the General Terms, as follows:
- a. Section 13 (Anti-Discrimination) of the General Terms is amended to include the following anti-discrimination laws, which Amazon hereby agrees to satisfy: the Unruh Civil Rights Act, California Civil Code section 51, *et seq.*; the California Fair Employment and Housing Act, Government Code section 12940, *et seq.*; and any other applicable state and federal laws and regulations prohibiting discrimination in employment.
 - b. Notwithstanding anything to the contrary in Section 15 (Applicable Laws and Courts) or in the Amazon Business Account Terms and Conditions, this Agreement shall be interpreted in accordance with California law, without regard to its conflict of laws provisions. Any litigation arising under this Agreement shall be filed in a superior court in the State of California having jurisdiction over the parties and over the subject matter of the litigation, or filed in a federal court in the State of California having jurisdiction over the parties and over the subject matter of the litigation.
 - c. Amazon is registered and, for the duration of this Agreement, shall remain registered, with the State of California Secretary of State, and Amazon shall maintain an agent for service of process located in California for the duration of this Agreement.
 - d. Only to the extent required to transact business in Contra Costa County, Amazon will obtain a business license from Contra Costa County.
 - e. For the purposes of this Agreement, Section 34 (Virginia Freedom of Information Act) of the General Terms is hereby deleted in its entirety and replaced with the following new Section 34 (Disclosure of Public Records), to read:

“34. DISCLOSURE OF PUBLIC RECORDS. Amazon acknowledges and agrees that the County is a public agency in the State of California and is required to produce non-exempt, disclosable public records upon request by a member of the public pursuant to the California Public Records Act, Government Code section 6250, *et seq.* (“PRA”), and the Contra Costa County Better Government Ordinance, Division 25 of the Contra Costa County Ordinance Code (“BGO”). Further, the County is required to make records available to the Board of Supervisors and members of the public in public agenda packets pursuant to the Ralph M. Brown Act, Government Code section 54940, *et seq.* (“Brown Act”). Amazon acknowledges and agrees that the County will present this Agreement, which includes the Master Contract, to the Board of Supervisors for its approval and that the public will have access to this Agreement and the Master Contract. If the County receives a third-party request under the PRA and/or BGO (“Request”) seeking records connected with this Agreement and the County’s communications with Amazon or purchases from Amazon under this Agreement, the County will notify Amazon of the Request. Amazon shall have ten (10) days after being notified of the Request by the County to seek an order from the Contra Costa County Superior Court preventing the release of any records demanded by the Request. If Amazon fails to timely seek an order, or if the Court denies the order, the County

may disclose all responsive, non-exempt public records without violating any term of this Agreement or any term of the Amazon Business Account Terms and Conditions. Notwithstanding Section 10 (Precedence of Terms) of the General Terms, this Section 34 shall prevail over any conflicting provisions in the Master Contract or the Amazon Business Account Terms and Conditions.

- f. For the purposes of this Agreement, Section 24 (Immigration Reform and Control Act of 1986) is hereby amended to remove all references to Virginia laws, but to retain all references to applicable federal laws.
4. **No Joint Venture.** At all times during the term of this Agreement, neither party will function as or represent it to be the other party or its agent, and no officer, employee, or agent of one party shall hold himself or herself out to be an officer, employee, or agent of the other party. This Agreement does not create any rights or obligations between the parties other than those expressly set forth herein, and nothing in this Agreement shall be construed as conferring any rights upon any third parties or any other party other than the County and Amazon.
5. **Amendment.** This Agreement may be amended or modified at any time by mutual written agreement of the parties.
6. **Termination.** Notwithstanding anything to the contrary in the Master Contract or the Amazon Business Account Terms and Conditions, either the County or Amazon may terminate this Agreement at any time upon sixty (60) days' advance written notice to the other party.
7. **Notices.** Under this Agreement, notices to the parties shall be provided to:

To Amazon:

Amazon.com Services LLC
410 Terry Avenue North
Seattle, WA 98109
Telephone: 312-342-8036
Contact: Chip Battoe, Sr. Customer Advisor - Government
Email: battoec@amazon.com

To County:

Contra Costa County-Purchasing Services
40 Muir Road, 2nd floor
Martinez, CA 94553
Telephone: 925-957-2495
Contact: Cynthia Shehorn, Procurement Services Manager
Email: cindy.shehorn@pw.cccounty.us

All notices shall be in writing and personally delivered, delivered by overnight carrier with delivery charges for next day deliver prepaid by the sending party, or sent by First Class U.S. Mail, with postage prepared by the sending party. A courtesy copy of a notice may be given by email, but giving a courtesy copy of a notice by email does not relieve the sending party of its obligation to give notice to the receiving party in the manner required by this section. A notice given in accordance with this section shall be deemed received by the receiving party on (a) the same day, if personally delivered, (b) the next business day if timely deposited with an overnight carrier and with delivery charges prepared to ensure next day delivery, and (c) on the fifth day after mailing if mailed by First Class U.S. Mail with postage prepaid.

8. **Successors and Assigns; Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither party may assign this Contract without the prior written consent of the other party, except that Contractor may assign this Contract to an Affiliate or in connection with any merger, reorganization, sale of all or substantially all of Contractor's assets or any similar transaction. Subject to this limitation, this Contract will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and assigns. For purposes of this section, the term "Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with Contractor.

IN WITNESS WHEREOF, this Agreement is executed as of the Effective Date first written above by Contra Costa County and Amazon acting by and through their duly authorized officers.

Contra Costa County

By: 

Name: Cynthia L. Shehorn, CPPB
Public Works Division
Purchasing Department
Contra Costa County

Title: PROCUREMENT MANAGER

Date: 6-8-2021

Amazon.com Services LLC

DocuSigned by:
By: Rob Green
60C823634DA04D0...

Name: Rob Green

Title: Authorized Signatory

Date: June 7, 2021

