

PARTICIPATING ADDENDUM
for
Maintenance, Repair & Operations (MRP) Supplies, Parts, Equipment, and Materials under
OMNIA Purchasing Cooperative Program

Participating Entity:
CONTRA COSTA COUNTY

Contractor: W.W. Grainger, Inc.

This Agreement is made and entered into as of November 16, 2021 ("Effective Date"), by and between Contra Costa County, a political subdivision of the State of California ("County"), and W.W. Grainger, Inc., an Illinois corporation, (hereinafter referred to as "Grainger") whose principal place of business is 100 Grainger Parkway, Lake Forest, IL 60045. The County and Grainger are sometimes referred to herein together as the "Parties," and each as a "Party."

Whereas, Grainger offer maintenance repair and operations supplies, parts, and equipment under Contract #192163, awarded by the City of Tucson, Arizona, as previously amended, ("Master Contract;" the most recent amendment is dated April 20, 2020) and made available to public agencies nationally by OMNIA Public Purchasing Purchasing Alliance ("OMNIA"), after a competitive bid process.

Whereas, the County has determined that entering into a Participating Addendum under the OMNIA program provides a benefit to the County, but that certain terms and conditions of the Master Contract must be modified to meet legal requirements that apply to the County.

Now therefore, Grainger and the County agree as follows:

1. **Term.** The term of this Agreement begins on the Effective Date, and it expires on December 31, 2022. The County and Grainger may agree to amend this Agreement to extend its term by up to two additional years, one year at a time, provided that the Master Contract remains in effect as of the date the term of this Agreement is extended. Any extension of the term of this Agreement is subject to the prior approval of the County's Board of Supervisors, its governing body. If the Master Contract is terminated prior to the expiration of the term, or any extension thereof, Grainger shall help the County select a replacement cooperative contract to continue to perform under this Agreement until the term of this Agreement, or extension thereof, expires, or until this Agreement is terminated.
2. **Payment Limit.** The County's total payments to Grainger under this Agreement shall not exceed \$2,000,000 ("Payment Limit"). Nothing in this Agreement obligates the County to make any purchases, or any particular volume of purchases, under this Agreement.
3. **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, as follows:
 - a. **Parties.** Each reference to "City of Tucson," and "City" in the Master Contract is deleted and replaced with "Contra Costa County" and "County," respectively*. Each reference to "Department of Procurement" or "Procurement Department" in the Master Contract is hereby deleted and replaced with "Purchasing Agent.*" * as applicable to a participating member of the cooperative on the Master Contract.
 - b. **Insurance.** Notwithstanding anything to the contrary in the Master Contract, each certificate of insurance that Grainger, or any subcontractor of Grainger, is required to

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provide the County shall name "Contra Costa County, its officers, employees, and representatives" as additional insureds.

- c. Affirmative Action. Section 2 (Affirmative Action) of the Standard Terms and Conditions of the Master Contract is hereby deleted.
- d. Applicable Law. Section 4 (Applicable Law) of the Standard Terms and Conditions of the Master Contract is hereby deleted and replaced with new Section 4, to read:

"4. Applicable Law. This Contract shall be governed by the laws of the State of California, without regard to conflict of laws principles. Any litigation brought under this Contract shall be filed in a state or federal court in California where venue is proper, and which has jurisdiction over the parties and over the subject matter of the litigation."
- e. Confidentiality of Records. Section 9 (Confidentiality of Records) of the Standard Terms and Conditions of the Master Contract is hereby deleted in its entirety and of no further force or effect.
- f. Federal Immigration Laws and Regulations. In Section 16 (Federal Immigration Laws and Regulations) of the Standard Terms and Conditions of the Master Contract, each reference to an Arizona statute or law is hereby deleted.
- g. Human Relations. Section 19 (Human Relations) of the Standard Terms and Conditions of the Master Contract is hereby deleted.
- h. Israel Boycott Divestments. Section 24 (Israel Boycott Divestments) of the Standard Terms and Conditions of the Master Contract is hereby deleted.
- i. Payments. Notwithstanding anything to the contrary in Section 30 (Payment) of the Standard Terms and Conditions of the Master Contract, the County may make any payments to the Contractor by any lawful method, including but not limited to credit card, procurement card, check, or warrant.
- j. Public Records. The following term is hereby added to the Master Contract, to read:

"Public Records. The County is a California public agency that is required to comply with local, state, and federal laws regarding public records, including but not limited to the California Public Records Act (Cal. Gov. Code, § 6250, et seq.) and the County's Better Government Ordinance (Contra Costa County Ordinance Code, Division 25). This Contract, and all materials produced for or provided to the County under this Contract, will be disclosed upon request if the County determines the materials constitute disclosable public records under the California Public Records Act or under the Better Government Ordinance, or under any other local, state, or federal law or regulation."

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Grainger reserves the right to exercise any or all of its rights under the California Public Records Act and any other applicable California law or any other local, state or federal law or regulation to protect its confidential, proprietary or trade secret information from public or third-party disclosure.

4. Governing Law. Notwithstanding anything to the contrary in the Master Contract, this Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law principles. Any litigation to enforce or interpret this Agreement shall be filed and prosecuted in a state or federal court in California where venue is proper and which has jurisdiction over the parties and the subject matter of the litigation.
5. 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 Grainger.
6. Amendment. This Agreement may be amended or modified at any time by mutual agreement of the parties in writing.
7. Termination. Notwithstanding anything to the contrary in the Master Contract, either the County or Grainger may terminate this Agreement at any time upon sixty (60) days written notice to the other party at the other party's address specified in Section 9 (Notices).
8. Performance. Grainger affirms that there are no encumbrances or obstacles, which will prohibit its performance pursuant to the terms of this Agreement. Grainger shall be solely responsible for guaranteeing any of its dealers, distributors, or subcontractors perform in accordance with the requirements of the Master Contract. If the County issues any purchase orders to acquire goods or services under the Master Contract, to the extent that there is any conflict between the terms of the purchase order and a term in the Master Contract, the term of the Master Contract shall govern and prevail over the conflicting term in the purchase order.
9. Notices. Notices to the parties shall be provided to:

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W.W. Grainger, Inc.

W.W. Grainger, Inc.
Atten: Branch Manager, Tacy Nichols
444 Doolittle Drive
San Leandro, CA 94577-1016
Telephone: (925) 353-8996
Contact: Quazi Mustahid – Sr. Account Manager
Email: Mustahid.Quazi@grainger.com

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, certified mail return receipt required, 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, certified mail, return receipt required, U.S. Mail with postage prepaid.

10. Successors and Assigns; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. This Agreement may not be assigned by either party without the express written permission of the other party, which shall be within that party's sole discretion to provide.

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IN WITNESS, WHEREOF, the parties have executed this Addendum as of the Effective Date.

Participating Entity: Contra Costa County	Contractor: W.W. Grainger, Inc.
Signature:	Signature: <i>Brooke Vandekamp</i>
Name: Cynthia Shehorn CPPB	Name: <i>Brooke Vandekamp</i>
Title: Procurement Services Manager	Title: <i>Regional Sales Vice President</i>
	Signature:
	Name:
	Title:

Approved as to form:
 Mary Ann McNett Mason, County Counsel

By: _____
 Deputy County Counsel

Attachment:
 Master Contract