

PARTICIPATING ADDENDUM
for
Cleaning Supplies and Equipment, and Custodial Related Products under OMNIA Purchasing
Cooperative Program

Participating Entity:
CONTRA COSTA COUNTY

Contractor: **HD Supply Facilities Maintenance, LP**

This Agreement (“Agreement”) is made and entered into as of February 7, 2023 (“Effective Date”), by and between Contra Costa County, a political subdivision of the State of California (“County”), and HD Supply Facilities Maintenance, LP, a Florida limited partnership (which is registered in Florida under the name “HD SUPPLY FACILITIES MAINTENANCE, LTD,” and formerly known as The Home Depot PRO) (hereinafter referred to as “Contractor”), whose principal place of business is 3400 Cumberland Blvd., Atlanta, GA 30339. The County and Contractor are sometimes referred to herein together as the “Parties,” and each as a “Party.”

Whereas, Contractor offers goods and janitorial supplies under that “Cleaning Supplies and Equipment, and Custodial Related Products Services and Solutions Agreement,” dated September 29, 2022, awarded after a competitive process in response to Request for Proposals No. 22-07 by Fresno Unified School District, California (“Master Contract”) and made available to public agencies nationally by OMNIA Public Purchasing Purchasing Alliance (“OMNIA”).

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.

Whereas, the County is participating in the Master Contract to be able to purchase competitively priced supplies and goods and not to contract for janitorial services.

Now therefore, Contractor and the County agree as follows:

1. Term. This Agreement begins on the Effective Date and shall be coterminous with the Master Contract, unless sooner terminated by the Parties. Either Party may terminate this Agreement with or without cause upon ninety (90) calendar days’ prior written notice to the other Party.
2. Payment Limit. The County’s total payments to Contractor under this Agreement shall not exceed \$3,100,000 (“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 “Fresno Unified School District,” “Fresno Unified School DISTRICT,” “DISTRICT,” and “District,” is deleted and replaced with “Contra Costa County,” “Contra Costa County,” “County,” and “County,” respectively. Each reference to “Contract Administrator” in the Master Contract is hereby deleted and replaced with “Purchasing Agent.” Each reference to “Fresno USD Board” shall be inapplicable for purposes of this Agreement. Each reference to “PROVIDER,” “Supplier,” and “Vendor” in the Master Contract shall mean the Contractor.

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- b. Insurance. Notwithstanding anything to the contrary in the Master Contract, each certificate of insurance that Contractor, or any subcontractor, is required to provide the County under Section 10 of the Master Contract shall include “Contra Costa County, its officers, employees, and representatives” as additional insureds by separate, scheduled or blanket, endorsement.
- c. Governing Law and Venue. The second sentence of Section 15 (Governing Law and Venue) of the Master Contract is deleted and replaced with the following new second sentence, to read:
- “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.”*
- d. Purchases and Payments. Notwithstanding anything to the contrary in the Master Contract, all purchases under the Master Contract will be made by the County through purchase orders that incorporate the terms of this Agreement by reference. Terms in the purchase order related to goods ordered, payment terms, and delivery of such goods shall prevail over any conflicting terms of this Agreement and the Master Contract. All other terms of the Master Contract, including but not limited to pricing, insurance, indemnification, warranties, and limitations of warranties, shall prevail over any conflicting terms of the purchase order.
4. Amendment. This Agreement may be amended or modified at any time by mutual agreement of the Parties in writing.
5. Performance. Contractor affirms that there are no encumbrances or obstacles, which will prohibit its performance pursuant to the terms of this Agreement. Contractor shall be solely responsible for guaranteeing any of its dealers, distributors, or subcontractors perform in accordance with the requirements of the Master Contract.
6. Notices. Notices to the Parties shall be provided to:

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Contractor:

HD Supply Facilities Maintenance, LTD
3400 Cumberland Blvd, SE
Atlanta, GA 30339
Attn: John Pettinelli, Director and Becky Newell, Senior Manager

With a copy to: Legal Department

County:

Contra Costa County, Purchasing Division
40 Muir Road, 2nd floor
Martinez, CA 94553
Telephone: (925) 957-2495
Attn: Cynthia Shehorn, Procurement Services Manager

All notices hereunder shall be in writing and may be sent via personally delivery, overnight carrier with delivery charges for next day delivery 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 effective upon receipt.

7. 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 not be unreasonably withheld.

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IN WITNESS, WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Participating Entity: Contra Costa County	Contractor: HD Supply Facilities Maintenance, LTD, By HD Supply Management, LLC, a Florida limited liability company, its general partner
Signature:	Signature:
Name: Cynthia Shehorn	Name:
Title: Procurement Services Manager	Title:

Approved as to form:

Thomas L. Geiger, Chief Assistant County Counsel

By: _____

Deputy County Counsel

Attachment:

Master Contract