



**Request for Proposal
662-15P
Asphalt
(Steamboat Springs, Leadville, Dillon)**

Due:

August 18th, 2015
2:00p.m. Mountain Time

Buyer:

Linda Ouellette, C.P.M.
Procurement Specialist
CMC Purchasing Department
802 Grand Avenue
Glenwood Springs, CO 81601
bids@coloradomtn.edu

REQUEST FOR PROPOSAL #662-15P

Section I: Introduction

Colorado Mountain Junior College District ("CMC") is a statutory junior college district established in 1967, and includes three residential campuses, eight commuter campuses, a Distance Learning program and administrative offices. The District covers all or part of thirteen counties in Colorado, encompassing 12,000 square miles. Please visit our website at www.coloradomtn.edu for more information about our college.

CMC reserves the right to make multiple awards resulting from this RFP or to award no contract at all. After a contract is signed, CMC will post bid award information on the Purchasing website, www.coloradomtn.edu/purchasing.

Scope of Project-

Colorado Mountain College's Alpine Campus located at 1330 Bob Adams Dr., Steamboat Springs, CO, Leadville Campus at 901 South Hwy. 24, CO and our Dillon Campus at 333 Fiedler Ave., CO are requesting quotes from qualified firms and/or individuals to provide parking lot maintenance and resealing services. A mix of work will be needed including pavement crack sealing, re-stripe and recoating with an overlay of 2" asphalt. All work to be performed to the State of Colorado specifications.

Steamboat Springs- Area #1 is approx. 12,125 sq. ft., **Area #2** is approx. 16,830 sq. ft.

Leadville- Is approx. 13,000 sq. ft.

Dillon- Is approx. 9006 sq. ft.

No map provided for Leadville, mandatory walkthrough will suffice.

Delivery of finalized project needs to be completed between August to October.

Mandatory Walkthrough's at all three locations will be held at:

Steamboat Springs- meet at 2:00 p.m. at the Anderson Building, 1320 Bob Adams, on Thursday, July 30th.

Leadville- meet at 2:00 p.m. at the New Discovery Reception Desk on Monday, August 3rd.

Dillon- meet at 2:00 p.m. at the Dillon Annex Parking Lot on Wednesday, August 5th.

Proposal Content

The information provided herein is intended to assist proposers with a proper response to this RFP. CMC believes that this RFP provides interested proposers with sufficient information to submit proposals that meet minimum requirements. However, it is not intended to limit a proposal's content or to exclude any relevant or essential data. Proposers are encouraged to include additional information that will substantiate their service capabilities, product quality, and commitment to support your product or service. Any exceptions or alternate offerings to this request must be communicated. CMC reserves the sole right to determine what is considered to be "equivalent" or "equal". CMC also reserves the right to request samples for testing and evaluation.

Additionally, CMC recognizes you as the expert in this industry and we appreciate ideas that may improve the design or implementation of our project. Please submit your bid to the specifications provided and include information or ideas you may have that CMC should consider to improve our project. Our selection committee will carefully review these ideas and we will contact you with questions.

Section II: Timeline

- a. **JOB WALKTHROUGH.** There will be a mandatory walkthrough per schedule. Please note: The walkthrough will gather at the location specified and depart promptly as scheduled. Any contractor not present when the initial group leaves may not join the walkthrough.
WALKTHROUGH'S ARE: Mandatory
- b. **TIMELINE MODIFICATION.** CMC reserves the right to modify this timeline at any time. Any changes will be posted to the CMC Purchasing Department's website as soon as the information is available. All times are Mountain.

REQUISITION STEP	DATE	TIME
Issue date	07/24/15	4:00 p.m.
Pre- Proposal Walkthrough's		
Steamboat Springs-	07/30/15	2:00 p.m.
Leadville-	08/03/15	2:00 p.m.
Dillon-	08/05/15	2:00 p.m.
Questions and Clarifications Due (www.bids@coloradomtn.edu)	08/10/15	2:00 p.m.
Questions Answered	08/13/15	4:00 p.m.
Request for Proposals (RFP) Due (www.bids@coloradomtn.edu)	08/18/13	2:00 p.m.
Short List of Vendors Announced		4:00 p.m.
Candidate Interview (if necessary – save the date)		TBD
Target Award Date (Subject to Change)	08/20/15	4:00 p.m.

Section III: Instructions to Proposers

- a. Proposers are encouraged to attend all job walkthroughs. Walkthroughs that are mandatory must have your firm name on the official sign-in sheet distributed at the walkthrough to be eligible to bid. This Proposal is expected to be competitive with numerous vendors participating. CMC endeavors to provide a uniform distribution of information to vendors and conduct a fair selection process. We ask that you please follow these instructions carefully. Any submittal that does not meet the requirements set forth in this document and any Addendums will not be considered by the Selection Committee.
- b. All submittals please must please include the following please:
 - 1) Name, title and contact information of the official representative submitting your proposal
 - 2) Legal company name, address, phone and email
 - 3) RFP number
 - 4) Number of years in business and brief description of your company
 - 5) Minimum of three references with contact information for recent work that is similar in nature
 - 6) Insurance certificate (for evidence of coverage only)
- c. All information related to this Proposal will be posted in the “Bids, RFP’s...” section of the Purchasing Office’s website at www.coloradomtn.edu/purchasing. Please click on “Bids, RFP’s...” and find this solicitation. This website link will hold the most current and accurate documentation available for this project, including any changes to the timeline, addenda issued or other important information. Always look to this link for answers to your questions. This website also contains a section for vendors with helpful information on how to do business with the College.
- d. Proposers should carefully read the information contained herein, and in any addenda, and submit a complete proposal to all requirements and questions as directed.
- e. Questions regarding this RFP should be directed to Linda Ouellette via email at bids@coloradomtn.edu include the RFP number and the short description in the subject line of the email. CMC will attempt to answer all relevant questions submitted to this email address. Questions will be collected and answers will be posted to the CMC Purchasing Department website per the timeline. All such addenda issued by CMC prior to the time that proposals are received shall be considered part of the RFP. It shall be the proposer’s responsibility to monitor the website on a regular basis for any changes and/or addenda. Inquiries seeking information that is already posted on the College website will not be answered. Only those inquiries that CMC replies to which are made by formal written addenda shall be binding. Oral and other types of interpretations or clarifications will be without legal effect.
- f. CMC utilizes the Rocky Mountain E-Purchasing System to generate awareness and is our main notification tool for announcing RFP’s. CMC collects responses at bids@coloradomtn.edu . Send your RFP response with the RFP number (RFP-xxx-15) and the short description listed recorded in the subject line of your email. Please be sure to allow time for technical difficulties in submitting responses. The official time of your submittal will be the time stamped on the email by CMC’s email server. You will receive an error message if your email was not successfully delivered. In the absence of that message you can assume

confirmation that your response was accepted, CMC cannot promise to individually confirm all responses. Please note that the CMC Purchasing website will contain all information related to this project. Updates and other information will not be posted to the Rocky Mountain E-Purchasing System.

- g. Along with your RFP submit a certificate of liability insurance per the attached requirements (Exhibit A) for evidence only. If your proposal is successful and a contract awarded, a compliant certificate of insurance will be required with all endorsements at that time.
- h. Please do not contact any member of CMC's staff, faculty or member of the Selection Committee directly regarding this proposal other than the Buyer listed in this document. Any attempt to do so will result in your firm's disqualification at the discretion of the Director of Purchasing and Contracts.
- i. CMC makes no guarantee that an award will be made as a result of this RFP, and reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP or resulting contract when deemed to be in CMC's best interest. Representations made within the proposal will be binding on proposer. Failure to comply with the requirements contained within this RFP may result in the rejection of your proposal.
- j. Proposer recognizes and understands that any costs incurred by the proposer from submitting a response to this RFP are the responsibility of the bidder.

Section IV: Selection Criteria

The Selection Committee for this project will evaluate proposals to identify the best value for CMC. Specifically, the Selection Committee will select the successful proposer based on the following criteria in no order of importance:

1. Overall quality of response and services/products proposed
2. Company qualifications, experience and demonstration of technical and management competence
3. Pricing
4. References and reputation
5. Environmental policy and "Green" initiatives
6. Service capability including evaluation of past performance and number and scope of any conditions included in the proposal

Note: Criteria may be modified in subsequent Addenda. CMC is not bound to accept the lowest priced proposal if that proposal is not the best value for CMC in the sole discretion of the CMC Selection Committee. Submission of a proposal indicates proposer's acceptance of the evaluation technique and recognition that some subjective judgments must be made by CMC during the selection process.

Section V: Terms & Conditions

- a. **SUBMITTAL INSTRUCTIONS.** All submittals must adhere to the instructions provided above to be considered by the Selection Committee.
- b. **COPIES.** Nothing other than your post to Rocky Mountain e-Purchasing is required or will be considered by CMC.
- c. **PROPRIETARY INFORMATION.** It is understood that the College is a public institution and, as such, is subject to the Colorado Open Records Act, CRS §§ 24-72-101 et. seq. ("CORA"). Except as otherwise agreed prior to the award or finalization of any vendor transaction, College shall provide upon request by any third party all information pertaining to such transaction which must be disclosed pursuant to CORA, and College's obligations under CORA supersede its obligations under any agreement, contract, purchase order or negotiated transaction. If you are submitting any information that you consider proprietary or confidential, please do not post it to Rocky Mountain e-Purchasing. Send it via email to Linda Ouellette at bids@coloradomtn.edu. Include the RFP number and "Proprietary Information" in the subject line of the email.
- e. **REFUSAL.** CMC reserves the right to refuse any and/or all proposals or any part thereof.
- f. **WITHDRAW PROPOSAL.** You may withdraw your proposal at any time prior to the date and time set for closing.
- g. **DISCUSSIONS/NEGOTIATIONS.** CMC reserves the right to contact any proposer for clarification of information submitted; CMC reserves the right to conduct discussions with Proposers, to accept or not accept revisions of Proposals, and to negotiate any point in the proposal or the subsequent contract at the sole discretion of the Purchasing Manager.
- h. **AWARD.** Awards shall be made to any or all responsible proposers whose submittals are determined to be advantageous to CMC based on the evaluation factors described above. Price, although a consideration, will not be the sole determining factor. CMC reserves the right to ask for the "Best and Final Offer" from any or all proposers.
- i. **PRE-AWARD PRESENTATIONS.** The College reserves the right to require presentations from the highest-ranking proposers, in which they may be asked to provide additional information and answer questions from the Selection Committee.
- j. **CONTRACT.** The successful proposer is expected to enter into a standard contract with the College that will include, at a minimum, the College's standard Terms and Conditions of Purchase Orders (Exhibit B). CMC may choose to add additional terms to this contract.
- k. **INDEMNIFICATION.** Successful Proposers shall indemnify and save CMC harmless from any and all claims, demands, suits, and actions which may arise from errors or omissions caused by the Proposer in conjunction with its contractual obligations including, but not limited to, obligations for the preparation of any and all documents required by CMC in conjunction therewith, and shall defend all suits, in the name of CMC when applicable, and shall pay all costs and judgments which may issue thereon.
- l. **INSURANCE.** Successful Proposers shall have their insurance company send the CMC Department of Risk Management a compliant certificate of liability insurance (Exhibit A).

- m. **PAYMENT AND PERFORMANCE BOND.** CMC requires payment and performance bonds for all construction projects greater than \$50,000. Please price the bonds separately when you submit your response.
- n. **ILLEGAL ALIENS.** By submitting a proposal, a Proposer certifies pursuant to C.R.S. § 8-17.5-102(1) that, at the time of proposal submission, it does not knowingly employ or contract with an illegal alien and that the contractor has participated or attempted to participate in the Basic Pilot Program that is administered by the United States Department of Homeland Security in order to verify that it does not employ any illegal aliens.
- o. **LIMITATION OF MULTIPLE-FISCAL YEAR OBLIGATIONS.** All financial obligations of CMC under a contract resulting from this proposal subsequent to the fiscal year in which signed are contingent upon funds for this purpose being appropriated, budgeted, and otherwise made available by the CMC Board of Trustees. This contract shall not be deemed to create any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever for purposes of Section 20(4) (b) of the State Constitution (Amendment 1).

Section VI: Warranties, Representations and Acknowledgements of Proposer

- a. By signature hereon, proposer acknowledges and agrees that (1) this RFP is a solicitation for proposal and is not a contract or an offer to contract and (2) the submission of a proposal by proposer in response to this RFP will not create a contract between CMC and proposer.
- b. By signature hereon, proposer offers and agrees to furnish to CMC the products and/or services described in its proposal, at the at the prices quoted in the proposal, and to comply with all terms, conditions and requirements set forth in the RFP documents and contained herein.
- c. By signature hereon, Respondent represents and warrants that (1) proposer is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFP; (2) proposer has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFP; (3) proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances; (4) proposer understands the requirements and specifications set forth in this RFP and the terms and conditions set forth; and (5) all statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that CMC will rely on such statements, information and representations in selecting the successful proposer. If selected by CMC as the successful proposer, proposer will notify CMC immediately of any material change in any matters with regard to which proposer has made a statement or representation or provided information.
- d. By submitting a response to this solicitation the proposer agrees to be in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

Exhibit A

Colorado Mountain College Insurance Requirements

All vendors/companies/groups (herein referred to as “Vendor”) providing services to or doing business with Colorado Mountain College District (“CMC”) must maintain the following types of insurance with minimum limits of liability as stated below for the duration of the contract. Please send these requirements to your insurance agent or broker and have them provide a compliant Certificate of Liability Insurance (preferably a standard Acord form) to CMC.

Certificates of Liability Insurance evidencing the coverage, limits and endorsements outlined below must be issued by the insurance agent or carrier at least (5) working days prior to contract execution or work commencing.

Note: Additional coverage may be required dependent upon the nature and scope of services provided and/or work performed. Requests for exceptions to these requirements must be discussed with and approved by CMC Risk Management prior to contract execution or work commencing.

<u>Coverage</u>	<u>Minimum Required Limits</u>
Commercial Gen Liability (CGL)	\$1,000,000 Occurrence/\$2,000,000 aggregate \$2,000,000 Products / Completed Operations aggregate

The Vendor shall maintain CGL coverage for itself and all additional insureds for the duration of the services performed for CMC and maintain Completed Operations coverage required herein in full force and effect until the expiration of any applicable statutes of limitations. Colorado Mountain Junior College District and its affiliates shall be listed as an additional insured, including without limitation for Ongoing Operations and Products and Completed Operations. The insurance shall include a provision that such insurance afforded by the policy for the benefit of the additional insureds shall be primary and non-contributory to any insurance or self-insurance maintained by the additional insureds. In addition, a Waiver of Subrogation shall be issued in favor of CMC.

Automobile Liability **\$1,000,000 Combined Single Limit**

If Vendor uses any type of motor vehicle to perform a service for CMC, Vendor shall provide Automobile Liability insurance covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicles owned, scheduled, hired or non-owned by vendor/company providing bodily injury, including death, and property damage coverage. Colorado Mountain Junior College District and its affiliates shall be listed as an additional insured. The insurance shall provide a provision that such insurance afforded by the policy for the benefit of the additional insureds shall be primary and non-contributory to any insurance maintained by the additional insureds. In addition, Waiver of Subrogation shall be issued in favor of CMC.

Workers’ Compensation **Statutory Limits (\$100,000/\$500,000/\$100,000)**

Vendor shall maintain the coverage required by the state for Workers’ Compensation / Employer’s Liability insurance. The policy shall contain a Waiver of Subrogation in favor of CMC. If Vendor is not required by the state to carry Workers’ Compensation / Employer’s Liability insurance and officers have rejected coverage, Vendor is required to provide a Declaration of Independent Contractor Status form.

Additional Provisions

CMC requires that insurance carriers be licensed to conduct business in the State of Colorado and a minimum A.M. Best Rating of A-.

Vendor shall require in all Vendor’s subcontracts, if any, the same limits and coverage required herein.

Each insurance policy shall state that CMC will receive thirty (30) days prior written notice of any cancellation, non-renewal, or material alteration of the Vendor’s insurance policies. Renewal certificates should be automatically sent to CMC.

Certificate Holder: Colorado Mountain Junior College District
Risk Management Department 802
Grand Avenue
Glenwood Springs, CO 81601

Questions regarding CMC’s Insurance Requirements should be directed to:
gpedrick@coloradomtn.edu Phone: 970-947-8375 Fax: 970-384-8507

Revised 7/2015

Exhibit B

Purchase Order Terms & Conditions

1. Offer/Acceptance

If you have submitted a bid/quote/proposal to us this Purchase Order is an acceptance of your offer. If you have not submitted a bid/quote/proposal to us, this Purchase Order is an offer to buy, subject to your acceptance, which must be demonstrated by your written acknowledgement or fulfillment of the specifications in this Purchase Order. To the extent there is any inconsistency between this Purchase Order and your offer or any other agreement, the terms of this Purchase Order shall control. Except as expressly provided herein, this Purchase Order supersedes all prior communications, oral and written.

2. Acknowledgement

Vendor acknowledges that all terms as to quantity, quality, price, time of delivery and other specifications are material elements of this Purchase Order and must be strictly complied with.

3. Quality

The vendor agrees to furnish the products and/or services in strict accordance with the specifications and at the price set forth for each item. None of the terms or specifications stated in this Purchase Order may be added to, modified, superseded or otherwise altered except in writing, signed by an authorized representative of the Colorado Mountain College (the "College") Purchasing Department or Executive Office and sent by the College to vendor. Each shipment received by the College from vendor shall be deemed to be only upon the terms contained in this Purchase Order, notwithstanding any terms that may be contained in any acknowledgement, invoice form, or other act or document of vendor and notwithstanding College's act of accepting or paying for any shipment or similar act of College.

4. Termination Prior to Performance

Purchase Orders may be terminated from time to time before delivery for the convenience of the College. College also reserves all rights under the Uniform Commercial Code Article 2-609 regarding insecurity of vendor's ability to perform.

5. Termination After Contract Formation or Performance

a. Failure of Vendor to Deliver. In the event that vendor fails to deliver or perform as and when promised, the College reserves the right to cancel its order, or any part thereof, without prejudice to its other rights, and vendor agrees that the College may return all or part of any shipment so made, and may charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

b. Unless otherwise agreed in writing, in addition to the rights and remedies governing the transaction of goods in the Uniform Commercial Code (UCC), the Purchasing Manager may terminate this Purchase Order in whole or in part, for the convenience of the College. The Purchasing Manager shall give written notice of the termination to the vendor specifying the part of the Purchase Order terminated and when termination becomes effective. Upon receipt of the notice of termination, the vendor shall incur no further obligations except to the extent necessary to mitigate costs of performance. Upon such termination, the College shall pay vendor for all delivered and accepted goods, supplies and services but shall not be liable for any undelivered or unaccepted goods, supplies and services that were previously anticipated under this Purchase Order.

6. Delivery/Inspection/Acceptance

a. Unless otherwise specified in the solicitation or in this order, delivery shall be F.O.B. destination. Please advise Purchasing Manager immediately if you cannot guarantee the complete shipment will arrive on your promised delivery date noted on the Purchase Order. The title and risk of loss of the goods shall not pass to the College until the College actually receives the goods. All risk of transportation and all related charges shall be the responsibility of vendor.

c. The College shall have the right to inspect and test the goods at delivery before accepting them. If the College elects to inspect or test, successful completion of such inspection and testing shall be a prerequisite to the College's acceptance. Payment shall not constitute acceptance.

d. The College shall notify the vendor promptly of any damaged goods or goods not in conformity with the terms of this Purchase Order. If any goods are not in conformance with this Purchase Order the College may (1) retain all or any portion of the goods delivered under this Purchase Order and return, at vendor's sole cost and expense, those goods not retained- all without waiver of any claim the College may have for vendor's breach including, without limitation, the right to damages and the right to cancel this Purchase Order, (2) rescind this Purchase Order as to such non-conforming goods and the College shall receive a full refund, (3) accept such nonconforming goods at an equitable reduction in price, or (4) reject the nonconforming goods and require delivery of suitable replacements. A breach of this Purchase Order by vendor may, in the College's sole discretion, constitute a breach by vendor of any other Purchase Order between vendor and the College entitling the College, in addition to any other remedies it may have, to cancel such other Purchase Order.

7. Pricing

a. Prices may not be increased for any reason whatsoever, without the College's express written consent. If price is omitted on the Purchase Order, vendor's price will be the lowest prevailing market price.

b. The College will not be charged for postage, packing, or other charges unless specifically set forth on the face of this Purchase Order.

8. Payment

Payment will only be made upon submission of an acceptable invoice dated after the date of the Purchase Order. Invoices for Blanket Purchase Orders shall be delivered prior to the ending date if indicated. Payment periods will start from the date of receipt of acceptable invoice or from date of receipt of acceptable merchandise at destination by authorized College agent, whichever is later.

9. Taxes (State Tax Exemption Number 98-00796) (FEIN Number 84-0567768)

The College is a statutory junior college district in the State of Colorado and is exempt from all Federal taxes under Chapter 32 of the Internal Revenue Code and from all City and State taxes and use taxes.

10. Intellectual Property

All research, data, plans, documents and the like relating to or arising from this Agreement are property of the College unless otherwise specified in the Scope of Work. Any reuse without prior written authorization is prohibited. All users of College technology are expected to

use those resources in a responsible, ethical, efficient and professional manner consistent with all applicable laws, including FERPA, and College policies and procedures.

11. Warranty

Vendor warrants that the goods covered by this Purchase Order are of excellent quality, are safe and fit for their intended purposes, and that such goods and their purchase and use by the College will not infringe upon or violate any patent, copyright, trademark, service mark or other right. Additionally, all provisions and remedies of the Colorado UCC relating to both implied and express warranties are herewith referred to and made a part of this Purchase Order (including that the goods are free from defects in title, workmanship and material, free from defects in design, and of merchantable quality suitable for the purposes of the College). Further, vendor shall deliver to the College at the time of delivery of goods all applicable manufacturer warranties, and other express warranties applicable to such goods. Any vendor providing services shall perform all services in a good and workmanlike manner, to the reasonable satisfaction of the College. Vendor agrees, at its own expense, to diligently correct any work and replace any goods or materials deemed unsatisfactory by the College.

12. Jurisdiction

This Purchase Order shall be construed in accordance with the laws of the State of Colorado. In the event any dispute arises hereunder, the venue for any legal proceedings shall be in Garfield County, Colorado, and vendor hereby submits and agrees to the jurisdiction of the courts therein. The Colorado UCC shall apply to the interpretation and application of this Purchase Order to the extent consistent with the terms herein set forth.

13. Compliance with Laws

Vendor at its expense shall comply with all applicable Federal and State laws, rules, regulations, orders and ordinances from time to time in effect regarding the sale of goods or services under this Purchase Order; and upon reasonable request, vendor at its expense will execute and furnish to the College appropriate written certifications of compliance. The vendor is responsible for obtaining any and all licenses and permits required for the performance of this Purchase Order. Where applicable, such compliance shall include but not be limited to the Colorado Anti-Discrimination Act of 1957, as amended; the Rehabilitation Act of 1973, as amended; the Code of Federal Regulations provisions regarding equal employment opportunity, affirmative action, employment for disabled veterans and veterans of the Vietnam era, and employment of the handicapped; the Anti-Kickback Act of 1986; the Americans with Disabilities Act; and, with all rules, regulations and orders issued thereunder; and FERPA.

14. Independent Contractor

The vendor shall perform its duties hereunder as an independent contractor and not as an employee. Neither the vendor nor any agent or employee of the vendor shall be or shall be deemed to be an agent or employee of the College. Vendor shall pay when due all required employment taxes and income tax withholding including all Federal and State income tax and local head tax on any monies paid pursuant to this Purchase Order. Vendor acknowledges that the vendor and its employees are not entitled to unemployment or workmen's compensation insurance benefits from College and that College does not pay for or otherwise provide such coverage. Vendor shall have no authorization, express or implied, to bind the College to any agreements, liability, or understanding except as expressly set forth herein. Vendor shall be solely responsible for the acts and omissions of Vendor, its employees, and agents.

15. Assignment

Neither party to this Purchase Order may assign any portion of this agreement without the prior written consent of the other party.

16. Fund Availability

All financial obligations of the College subsequent to the fiscal year, ending June 30, are contingent upon funds for this purpose being appropriated, budgeted, and otherwise made available by the College Board of Trustees. This Purchase Order shall not be deemed to create any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever for purposes of Section 20(4)(b) of Article X of the State Constitution (Amendment 1).

17. Exclusivity -It is expressly understood that this Purchase Order does not grant vendor an exclusive privilege to furnish to the College any or all of the type of products and services, which are the subject of this Purchase Order, which the College may require. The College expressly reserves the right to contract with others for the purchase of products and services comparable or identical to the products and services that are the subject of this Purchase Order.

18. Indemnification

Vendor will indemnify, defend and hold the College harmless from and pay for any loss, damage, judgment, cost or expense (including without limitation, legal fees and court costs) arising out of (i) any actual or alleged death of or injury to any person, any actual or alleged damage to or destruction of any property, or any other actual or alleged damage or loss whatsoever, resulting or alleged to result in whole or in part from any actual or alleged defect in any goods or services covered by this Purchase Order, whether latent or patent and including, without limitation, any actual or alleged failure by such services and goods or the manufacture, possession, use or sale thereof to comply with any law, rule, regulation, ordinance or order; and (ii) any breach by vendor contained in this Purchase Order. Vendor shall be solely responsible for any and all losses, damages, injuries, or expenses, include consequential damages, incurred by vendor in connection with its performance pursuant to this Purchase Order. The College shall not be liable for and shall not indemnify vendor for any such losses, damages, injuries, or expenses.

19. Insurance

In accordance with the policies and procedures of Colorado Mountain Junior College District, all vendors and service providers must maintain certain insurance and specified limits for the duration of the contract. Vendor represents it carries currently in-force liability insurance as outlined in Colorado Mountain College Insurance Requirements. Colorado Mountain College reserves the right to ask for proof of this insurance.

20. Rights and Remedies

The rights and remedies of the College under this Purchase Order are cumulative and not exclusive of any rights or remedies to which the College is entitled by law. The exercise by the College of any right or remedy under this Purchase Order or under applicable law will not preclude the College from exercising any other right or remedy under this Purchase Order or to which the College is entitled by law.

21. UCC

Except as otherwise agreed, the Uniform Commercial Code shall govern in the case of transactions in goods. In the case of services, if the vendor refuses or fails to timely perform any of the provisions of this Purchase Order, with such diligence as will ensure its completion within the time specified in this Purchase Order, the Purchasing Manager may notify the vendor in writing of the non-performance, and if not promptly corrected within the time specified, such officer may terminate the vendor's right to proceed with the Purchase Order or such part of the Purchase Order as to which there has been delay or a failure to properly perform. The vendor shall continue performance of the Purchase

Order to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the Purchase Order price.

22. Terms

The terms "the College", "we" and "us" shall refer to Colorado Mountain Junior College District, the purchaser identified on the front side of this Purchase Order. The terms "vendor" and "you" shall refer to the vendor identified on the front of this Purchase Order.

23. Miscellaneous

a. The invalidity or unenforceability of any provision of this Purchase Order under any present or future law, rule, regulation or ordinance will not affect any other provision of this Purchase Order, and the remaining provisions of this Purchase Order shall continue with the same force and effect as if such invalid or unenforceable provision had not been inserted in this Purchase Order.

b. No term or condition of this Purchase Order shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS-24-10-101 et seq. the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

c. All goods delivered and labor performed under this Purchase Order shall be free of all liens and, if the College requests, a formal release of all liens shall be delivered to the College.

d. No revision of this Purchase Order shall be valid unless made in writing and signed by a duly authorized representative of the parties.

24. CORA

It is understood that the College is a public institution and, as such, is subject to the Colorado Open Records Act, CRS §§ 24-72-101 et. seq. ("CORA"). Except as otherwise agreed prior to the award or finalization of any vendor transaction, College shall provide upon request by any third party all information pertaining to such transaction which must be disclosed pursuant to CORA, and College's obligations under CORA supersede its obligations under any agreement, contract, purchase order or negotiated transaction.