

1 AGREEMENT

2 **30430**

3 THIS AGREEMENT is made and entered, in duplicate, as of December 4,  
4 2007 for reference purposes only, pursuant to Resolution No. RES-07-0162 adopted by  
5 the City Council of the City of Long Beach at its meeting on November 20, 2007, by and  
6 between DEERE & COMPANY DBA JOHN DEERE COMPANY ("Contractor"), located at  
7 2000 John Deere Run, Cary, North Carolina 27513, and the CITY OF LONG BEACH  
8 ("City"), a municipal corporation.

9 WHEREAS, Section 1802 of the Long Beach City Charter permits the City  
10 to make purchases under the purchasing contracts of other governmental agencies when  
11 authorized to do so by a resolution; and

12 WHEREAS, the City desires to purchase three (3) John Deere 7630  
13 tractors from Deere & Company dba John Deere Company; and

14 WHEREAS, the State of California Multiple Award Schedule (CMAS) has a  
15 contract for the purchase of John Deere 7630 tractors under Contract No. 4-07-23-007C  
16 ("State Contract"); and

17 WHEREAS, Resolution No. RES-07-0162 authorizes the City Purchasing  
18 Agent to purchase this equipment from Contractor by virtue of the State Contract;

19 NOW, THEREFORE, in consideration of the terms and conditions  
20 contained in this Agreement, the parties agree as follows:

21 1. The State Contract with Contractor is incorporated by this reference  
22 as if fully set forth, and the same terms and conditions contained in the State Contract  
23 shall be applicable here except as follows:

24 A. Wherever the State Contract refers to the State of California  
25 Multiple Award Schedule, it shall be deemed to refer to the City of Long Beach;

26 B. Contractor shall sell, furnish and deliver to the City equipment  
27 of substantially the same type and kind purchased by the State of California  
28 Multiple Award Schedule and on the same terms and conditions offered to the

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 State of California Multiple Award Schedule, except as modified by Exhibit "A"  
2 attached to and incorporated in this Agreement, for an amount not to exceed  
3 \$278,695.29 including tax, for a period extending until the warranty on the tractors  
4 expire. To the extent that the State Contract and this Agreement are inconsistent,  
5 the following priority shall govern: (1) this Agreement and (2) the State Contract.

6 C. Payment for the equipment purchased from Contractor by the  
7 City shall be made by the City on delivery to and acceptance of the equipment by  
8 the City and submittal of an invoice to the City. Payment is due thirty (30) days  
9 after the date of the invoice.

10 D. All warranties shall accrue to the City of Long Beach.

11 E. The parties may, by mutual agreement, amend this  
12 Agreement with the approval of the City's City Council.

13 2. Neither this Agreement nor any money that becomes due to  
14 Contractor under this Agreement may be assigned by Contractor without the prior written  
15 consent of the City Manager or his designee.

16 3. Any notice given under this Agreement shall be in writing and  
17 personally delivered or deposited in the U.S. Postal Service, return receipt, and shall be  
18 delivered or mailed to Contractor at the relevant address first stated above, and to the  
19 City at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City Manager.  
20 Notice shall be deemed given three days after deposit in the mail.

21 4. The terms appearing on the State Contract are incorporated in this  
22 Agreement.

23 5. Contractor shall cooperate with the City in all matters relating to self-  
24 accrual of use tax. Contractor shall contact the City Treasurer for additional information  
25 regarding self-accrual.

26 6. This Agreement and all documents which are incorporated by  
27 reference in this Agreement constitute the entire understanding between the parties and  
28 supersede all other agreements, oral or written, with respect to the subject matter of this

1 Agreement. If there is any legal proceeding between the parties to enforce or interpret  
2 this Agreement, or to protect or establish any rights or remedies, the prevailing party shall  
3 be entitled to its costs and expenses, including reasonable attorney's fees.

4 IN WITNESS WHEREOF, the parties have caused this document to be duly  
5 executed with all formalities required by law as of the date first stated above.

6 DEERE & COMPANY DBA JOHN DEERE  
7 COMPANY  
8 Dec 11, 2007 By Hank Otten

9 HANK OTTEN  
(Type or Print Name)

10 Dec. 11, 2007 By Curtis Ince  
11 Curtis Ince  
(Type or Print Name)

12 "Contractor"  
13  
14 CITY OF LONG BEACH, a municipal  
15 corporation

16 December 26, 2007 By Steve  
17 Assistant  
City Manager

18 "City"  
19 EXECUTED AND DELIVERED  
TO SECTION 301 OF  
THE CITY CHARTER.

20 This Agreement is approved as to form on 12/19,  
21 2007.

22 ROBERT E. SHANNON, City Attorney  
23 By Erin Conway  
Deputy

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
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# EXHIBIT “A”

# CALIFORNIA MULTIPLE AWARD SCHEDULE B (CMAS) WORKSHEET

VENDOR
<b>John Deere Company</b>
2000 JOHN DEERE RUN DR. CARY NC 27513 1-800-358-5010
Utility Vehicles/Gators - John Deere CMAS Contract # 4-01-23-0007A
Lawn/Snow Removal Equip. Consumer/Comm. CMAS Contract # 4-96-37-0001A
<input checked="" type="checkbox"/> Tractor, Maintenance & Access. Agriculture CMAS Contract # 4-07-23-0007C

ORDERING INSTRUCTIONS
(1) List John Deere Co. as vendor on Purchase Order.
(2) FAX a copy of your P.O. to SOUTH KERN MACHINERY INC @ (661) 833-9911 Attn: Hank Otten.
(3) List SKM as Delivering Dealer on your Purchase Order.
(4) Payment is to be issued to John Deere Company.
(5) Call Hank Otten with questions @ (800) 244-6424.
(6) Equipment to be delivered by SOUTH KERN MACHINERY "The CMAS Dealer" Bakersfield CA

This worksheet is intended to help a John Deere Dealer with a qualifying agency to prepare a purchase order or submission directly to John Deere Company. All purchase orders received by John Deere Company are subject to audit verify prices and availability of those prices to the Agency. John Deere prices are subject to change without notice. In addition, CMAS prices are based on and are subject to change with revision to GSA contracts.  
Agency will be billed 2.56% of the PreTax price by the State of California.

**List Price Effective Date: August 27, 2007**

List all codes required for a complete machine & the list prices

Equipment Code	Description	List Price
1501RW	JOHN DEERE 7630 TRACTOR 140 PTO HP	\$91,161.00
986	COMMAND VIEW CAB W/ AC, HEATER, ECT...	0.00
1150	POWERQUAD TRANS, 16F/ 16R	0.00
2300	TRIPLE REAR HYDRAULIC OUTLETS	968.00
2412	540/1000 RPM PTO	0.00
2709	CAT # 3 DRAWBAR	142.00
2531	CAT # 3 THREE POINT HITCH W/ QUIK-COUPLER	1,125.00
3004	96 INCH REAR AXLE	0.00
4212	710/70R38 REAR RADIAL TIRES	2,622.00
5025	1150 SERIES 4WD	13,672.00
6208	600/65R28 RADIAL FRONT TIRES	3,768.00
9109	DEERE / DELCO RADIO AM/FM	580.00
9066	FIELD VISION EXNON FRONT LIGHT PACKAGE	2,259.00
9059	FIELD VISION EXNON REAR LIGHT PACKAGE	1,161.00
9165	OUTSIDE MIRROR PACKAGE	358.00
9779	ROTATING BEACON LITE	271.00
9036	POWER STRIP W/ 6 OUTLETS	60.00
9061	BACKUP ALARM	143.00
9025	WIDE FRONT FENDERS	1,008.00
9416	SIXTEEN FRONT WEIGHTS	1,573.00
	TEIR III EPA AND CALIFORNIA CERTIFIED ENGINE	

<b>TO:</b>	LONG BEACH BEACHES AND HARBORS
	2600 TEMPLE AVE
	LONG BEACH, CA 90806
<b>Phone:</b>	<b>562-570-5406</b>
<b>FAX:</b>	<b>570-5414</b>
	<b>JOHN SEEVERS</b>

Total List Price per Unit	\$120,871.00
29% Discount	(35,052.59)
CMAS Price per Unit	\$85,818.41
<b>Dealer Option</b>	
Total CMAS price less applicable tax	<b>\$85,818.41</b>
8.25% TAX	7,080.02
<b>TOTAL</b>	<b>\$92,898.43</b>

Prepared By: Hank Otten, Governmental Sales



Department of General Services  
 Procurement Division  
 707 Third Street, 2<sup>nd</sup> Floor  
 West Sacramento, CA 95605-2811

State of California  
**MULTIPLE AWARD SCHEDULE**  
**Deere & Company**  
 dba  
**John Deere Company**

4-07-23-0007C - Brand-John Deere  
 Lawn/Ag Equip-Accessories  
 Lawn/Ag Equip-Mower  
 Lawn/Ag Equip-Sprayer  
 Lawn/Ag Equip-Tractor  
*(Above descriptions for marketing purposes only. Review contract for products/services available.)*

**CONTRACT NUMBER:** 4-07-23-0007C  
**CMAS TERM DATES:** 5/01/2007 through 2/28/2012  
**DISTRIBUTION:** STATEWIDE

The most current Ordering Instructions and Special Provisions and CMAS Terms and Conditions, products and/or services and pricing are included herein. All purchase orders issued under this contract incorporate the following Ordering Instructions and Special Provisions and CMAS Terms and Conditions dated July 2006.

Agency non-compliance with the requirements of this contract may result in the loss of delegated authority to use the CMAS program.

Contractor non-compliance with the requirements of this contract may result in contract termination.

**NOTICE:** Products and/or services on this CMAS contract may be available on a mandatory Strategically Sourced (CSSI) Contract. If this is the case, the use of this CMAS contract is restricted unless the State agency has an approved exemption pursuant to MM 05-11, and as further explained in the CSSI Contract User Instructions. Information regarding CSSI contracts can be obtained at the website: [www.pd.dgs.ca.gov/stratsourcing](http://www.pd.dgs.ca.gov/stratsourcing). This requirement is not applicable to local government entities.

TERRI LOPEZ, Program Analyst, California Multiple Award Schedules Unit

Effective Date: **5/01/2007**

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

**AVAILABLE PRODUCTS AND/OR SERVICES**

This contract provides for the purchase and warranty of agriculture equipment and accessories.

Only products from the manufacturer listed below are available within the scope of this contract:

**JOHN DEERE**

**CMAS BASE CONTRACT**

This CMAS contract is based on some or all of the products and/or services and prices from GSA #GS-30F-00071 (DEERE & COMPANY) with a GSA term of 11/29/2006 through 11/28/2011. The term of this CMAS contract incorporates an extension of three months beyond the expiration of the base GSA contract, and is shown in the "CMAS Term Dates" on page 1.

**ISSUE PURCHASE ORDER TO:**

Agency purchase orders must be mailed to the following address, or faxed to (919)804-2485:

John Deere Company  
2000 John Deere Run  
Cary, NC 27513  
Attn: Government and National Sales

Agencies with questions regarding products and/or services may contact the contractor as follows:

Phone: 972/317-5976  
E-mail: [FrankWilliamD@JohnDeere.com](mailto:FrankWilliamD@JohnDeere.com)

**PRIOR APPROVAL**

In accordance with State Administrative Manual (SAM) Section 4110, State agencies must get approval from Fleet Administration prior to placing the order. For approval, send the original Std. 65 to:

DEPT. OF GENERAL SERVICES  
OFFICE OF FLEET ADMINISTRATION  
802 Q STREET  
SACRAMENTO, CA 95814  
ATTN: STEVE NIELSEN  
(916) 853-7017

Local governments are not required to adhere to the above guidelines.

**INSPECTION**

In accordance with State Administrative Manual (SAM) Section 4113, equipment must be inspected by a Fleet inspector prior to delivery at the Contractor's site.

Contact Fleet as shown above to arrange for the inspection.

**CALIFORNIA SELLER'S PERMIT**

John Deere Company's California Seller's Permit No. is 99274270. Agencies can verify that this permit is still valid at the following website: [www.boe.ca.gov](http://www.boe.ca.gov).

When issuing an order to an authorized reseller on a CMAS contract, it is the agency's responsibility to ensure that the reseller holds a valid California Seller's Permit.

**WARRANTY**

For warranties, see the federal GSA schedule and the CMAS Terms and Conditions, General Provisions, CMAS Warranty.

**DELIVERY**

30 - 150 days after receipt of order, or as negotiated between agency and contractor and included in the purchase order, or as otherwise stipulated in the contract.

**PURCHASING AUTHORITY DOLLAR THRESHOLD**

No CMAS order may be executed by a State agency that exceeds that agency's CMAS purchasing authority threshold or the CMAS maximum order limit, whichever is less.

**MAXIMUM ORDER LIMITS (Local Governments are Exempt)**

The order limits for orders placed against CMAS contracts are as follows:

Information Technology Goods & Services: \$500,000

Non-Information Technology Services: \$250,000  
(DGS-PD prior approval required if over \$50,000. See further below.)

Non-Information Technology Goods: \$100,000

These transactions are subject to the following requirements:

- State agencies must solicit a minimum of 3 contractors including 1 small business and/or DVBE (if available) and document responses. This is not a bid transaction so small business preference, protest language, intents to award, evaluation criteria, advertising, etc. are not applicable.

Ordering Instructions and Special Provisions

2

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

- If less than 3 offers received, state agencies must document their files with the reasons why the other suppliers solicited did not respond with an offer.
- If only one source is known (competing offers cannot be obtained), the non-competitive bid (NCB) contract process must be followed. See the latest Management Memo (currently MM 03-10 including supplements), or whichever Management Memo is in effect at the time a purchase order is issued, for NCB guidelines. Exceptions to NCB process are also addressed in MM 03-10.
- Evaluation and award may be based on best value, as applicable, and not restricted to lowest cost.
- For CMAS transactions under \$5,000 only one offer is required if the state agency can establish and document that the price is fair and reasonable.
- Orders for Information Technology Goods and Services exceeding \$250,000 require additional documentation. See the latest Management Memo (currently MM 03-10) for specific information on these additional requirements.
- Exemptions to the CMAS order limits are not allowed.
- Local governments set their own order limits, and are not bound by the above order limits and requirements.

**SPLITTING ORDERS**

Splitting orders to avoid any monetary limitations is prohibited.

Do not circumvent normal procurement methods by splitting purchases into a series of delegated purchase orders (SAM 3572).

Splitting a project into small projects to avoid either fiscal or procedural controls is prohibited (SAM 4819.34).

**MINIMUM ORDER LIMITATION**

There is no minimum dollar value limitation on orders placed under this contract.

**ORDERING PROCEDURES**

**1. Order Form**

State agencies shall use a Contract/Delegation Purchase Order (Std. 65) for purchases and services.

Local governments shall, in lieu of the State's Purchase Order (Std. 65), use their own purchase order document. Local governments are not required to adhere to the above guidelines.

Electronic copies of the State Standard Forms can be found at the Office of State Publishing web site: <http://www.dgs.ca.gov/osp> (select Standard Forms). The site provides information on the various forms and use with the Adobe Acrobat Reader. Beyond the Reader capabilities, Adobe Acrobat advanced features may be utilized if you have Adobe Business Tools or Adobe Acrobat 4.0 installed on your computer. Direct link to the Standard Form 65: <http://www.osp.dgs.ca.gov/pdf/std065.pdf>

**2. Purchase Orders**

The agency is required to forward a copy of each purchase order to the Department of General Services (DGS), Procurement Division, Data Management, 707 Third Street, 2<sup>nd</sup> Floor, West Sacramento, CA 95605-2811 (MS# 2-1).

The agency is required to complete and distribute the order form. For services, the agency shall modify the information contained on the order to include the service period (start and end date), and the monthly cost (or other intermittent cost), and any other information pertinent to the services being provided. The cost for each line item should be included in the order, not just system totals. See the CMAS Services Guide at [www.dgs.ca.gov/ps](http://www.dgs.ca.gov/ps) (click on CMAS) for guidelines pertaining to all orders for services.

The contractor must immediately reject orders that are not accurate. Discrepancies are to be negotiated and incorporated into the order prior to the products and services being delivered.

**3. Service and Delivery after Contract Expiration**

The purchase order must be issued before the CMAS contract end term expires. However, delivery of the products or completion of the services may be after the contract end term expires (unless otherwise specifically stated in the contract), but must be as provided for in the contract and as specified in the purchase order.

Also, purchase order amendments cannot be issued to add products or services if the CMAS contract end term has expired.

**4. Multiple Contracts on STD. 65 Order Form**

Agencies may include multiple CMAS contracts from the same contractor on a single Std. 65 Contract/Delegation Purchase Order. For guidelines, see the Purchasing Authority Manual, Chapter 6.B4.1.



**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

**5. Amendments to Department's Purchase Orders**

Management Memo 03-10 provides the following direction regarding amendments to department purchase orders:

**Orders for IT Goods & Services or Non-IT Goods:**  
Original orders, which include options for changes (e.g., quantity or time), that were evaluated and considered in the selection for award during the Request for Offers process, may be amended consistent with the terms of the original order, provided that the original order allowed for amendments. If the original order did not evaluate options, then the NCB process must be followed for the amendment.

**Orders for Non-IT Services:**

Original orders, which do not include options for changes (e.g., quantity or time), may be amended. This only applies to the first amendment, the time shall not exceed one year, or add not more than 30% of the original order value, not to exceed \$250,000. The original contract must have permitted amendments. Outside of these conditions, the NCB process must be followed.

Also see the Purchasing Authority Manual, Chapter 8, Topic 7, for more information on amending purchase orders.

**CONTRACT PRICES**

Contract prices for products and/or services are maximums. The ordering agency is encouraged to negotiate lower prices.

**CONTRACTOR OWNERSHIP INFORMATION**

John Deere Company is a large business enterprise.

**SMALL BUSINESS MUST BE CONSIDERED**

Prior to placing orders under this CMAS program, state agencies shall whenever practicable first consider offers from small businesses that have established CMAS contracts (GC Section 14849(b)). NOTE: The Department of General Services auditors will request substantiation of compliance with this requirement when agency files are reviewed.

The following website lists CMAS Small Business and Disabled Veteran Partners:

[www.pd.dgs.ca.gov](http://www.pd.dgs.ca.gov)  
(click on CMAS click on State Agencies)

In response to our commitment to increase participation by small businesses, the Department of General Services waives the administrative fee (a fee currently charged to customer agencies to support the

CMAS program) for orders to certified small business enterprises.

See the current fees in the DGS Price Book at:  
<http://www.ofs.dgs.ca.gov/Price+Book/P/Purchasing.htm>

**SMALL BUSINESS/DVBE - TRACKING**

State agencies are able to claim subcontracting dollars towards their small business or DVBE goals whenever the Contractor subcontracts a commercially useful function to a certified small business or DVBE. The Contractor will provide the ordering agency with the name of the small business or DVBE used and the dollar amount the ordering agency can apply towards its small business or DVBE goal.

**SMALL BUSINESS/DVBE - SUBCONTRACTING**

1. The amount an ordering agency can claim towards achieving its small business or DVBE goals is the dollar amount of the subcontract award made by the Contractor to each small business or DVBE.
2. The Contractor will provide an ordering agency with the following information at the time the order is quoted:
  - a. The Contractor will state that, as the prime Contractor, it shall be responsible for the overall execution of the fulfillment of the order.
  - b. The Contractor will indicate to the ordering agency how the order meets the small business or DVBE goal, as follows:
    - List the name of each company that is certified by the Office of Small Business and DVBE Certification that it intends to subcontract a commercially useful function to; and
    - Include the small business or DVBE certification number of each company listed, and attach a copy of each certification; and
    - Indicate the dollar amount of each subcontract with a small business or DVBE that may be claimed by the ordering agency towards the small business or DVBE goal; and
    - Indicate what commercially useful function the small business or DVBE subcontractor will be providing towards fulfillment of the order.
3. The ordering agency's purchase order must be addressed to the prime Contractor, and the purchase order must reference the information provided by the prime Contractor as outlined above.

Ordering Instructions and Special Provisions

4

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

**SERVICES EXCLUDED ON THE CMAS PROGRAM**

The following services are not available on the CMAS Program:

**1. Architectural, Construction, Engineering and Environmental Services**

Services are not allowed on CMAS that are required by law to be performed by a licensed architect, licensed registered engineer, licensed landscape architect, construction project manager, licensed land surveyor, or environmental services as defined in Government Code 4525. If you have questions about these types of transactions, the Department of General Services (DGS), Real Estate Services Division (RESO) can be contacted at 916/376-1752.

**2. Legal Services**

Contracting for legal services by state agencies is controlled by statutes (GC 11040) that require Attorney General approval prior to entering into contracts with outside counsel. Additionally, Article VII of the California Constitution requires that state legal work be performed by state employees, absent limited exceptions (Government Code 19130). There are also policy-based approval requirements for all Executive Branch agencies that control the use of private counsel.

**3. Other Excluded Services**

Also, services involving financial audits, facility planning, registered nursing, and security guards are not available on the CMAS Program.

**OPEN MARKET/INCIDENTAL, NON-SCHEDULE ITEMS**

The only time that open market/incidental, non-schedule items may be included in a CMAS order is when they fall under the parameters of the Not Specifically Priced (NSP) Items provision. If the NSP provision is not included in the schedule, or the products and/or services required do not qualify under the parameters of the NSP provision, the products and/or services must be procured separate from CMAS.

**NOT SPECIFICALLY PRICED (NSP) ITEMS**

Contractors must be authorized providers of the hardware, software and/or services they offer under the Not Specifically Priced (NSP) Items provision.

Agency and contractor use of the NSP provision is subject to the following requirements:

1. Purchase orders containing only NSP items are prohibited.

2. A purchase order containing NSP items may be issued only if it results in the lowest overall alternative to the State.
3. NSP items shall be clearly identified in the order. Any product or service already specifically priced and included in the contract may not be identified as an NSP item.
4. **Maximum Order Limitation:** For orders \$250,000, or less, the total dollar value of all NSP items included in a purchase order shall not exceed \$5,000. For orders exceeding \$250,000, and at the option of the contractor, the total dollar value of all NSP items in a purchase order shall not exceed 5% of the total cost of the order, or \$25,000 whichever is lower.
5. An NSP item included in an order issued against a contract is subject to all of the terms and conditions set forth in the contract.
6. Trade-ins, upgrades, involving the swapping of boards, are permissible, where the contract makes specific provisions for this action. In those instances where it is permitted, the purchase order must include the replacement item and a notation that the purchase involves the swapping of a board.

The following NSP items ARE SPECIFICALLY EXCLUDED from any order issued under this contract:

1. Items not intended for use in directly supporting the priced items included in the same order. An NSP item must be subordinate to the specifically priced item that it is supporting. For example, a cable, which is not otherwise specifically priced in the contract, is subordinate to a specifically priced printer or facsimile machine, and is eligible to be an NSP item subject to that cable meeting the remaining NSP requirements. However, a printer or facsimile machine, which is not otherwise specifically priced in the contract, is not subordinate to a specifically priced cable, and is not eligible to be an NSP item.
2. Supply type items, except for the minimum amount necessary to provide initial support to the priced items included in the same order.
3. Items that do not meet the Productive Use Requirements for information technology products. (SAM Section 5203)
4. Any other item or class of items specifically excluded from the scope of this contract.
5. Public Works components NOT incidental to the overall project requirements.

Ordering Instructions and Special Provisions

5

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

6. Products or services the contractor is NOT factory authorized or otherwise certified or trained to provide.
7. Follow-on consultant services that were previously recommended or suggested by the same contractor.

The contractor is required to reject purchase orders containing NSF items that do not conform to the above requirements. The contractor will promptly notify the agency issuing the non-conforming order of its non-acceptance and the reasons for its non-acceptance.

**STATE AND LOCAL GOVERNMENTS CAN USE CMAS**

State and local government agency use of CMAS contracts is optional. A local government is any city, county, city and county, district or other local governmental body or corporation, including UC, CSU, K-12 schools and community colleges, that is empowered to expend public funds. While the state makes this contract available, each local government agency should make its own determination whether the CMAS program is consistent with their procurement policies and regulations.

**UPDATES AND/OR CHANGES**

A CMAS amendment is not required for updates and/or changes once the update and/or change becomes effective for the federal GSA schedule, except as follows:

- A CMAS amendment is required when the contract is based on products and/or services from another contractor's multiple award contract and the contractor wants to add a new manufacturer's products and/or services.
- A CMAS amendment is required for new federal contract terms and conditions that constitute a material difference from existing contract terms and conditions. A material change has a potentially significant effect on the delivery, quantity or quality of items provided, the amount paid to the contractor or on the cost to the State.
- A CMAS amendment is required for changes to contracts that require Prison Industry Authority (PIA) approval.

A CMAS amendment is required to update and/or change terms and conditions and/or products and services based on a non-federal GSA multiple award contract.

**SELF-DELETING FEDERAL GSA TERMS AND CONDITIONS**

instructions, or terms and conditions that appear in the Special Items or other provisions of the Federal GSA and apply to the purchase, license, or rental (as applicable) of products or services by the U.S. Government in the United States, and/or to any overseas location shall be self-deleting. (Example: "Examinations of Records" provision).

Federal regulations and standards, such as Federal Acquisition Regulation (FAR), Federal Information Resources Management Regulation (FIRMR), Federal Information Processing Standards (FIPS), General Services Administration Regulation (GSAR), or Federal Installment Payment Agreement (FIPA) shall be self-deleting. Federal blanket orders and small order procedures are not applicable.

**ORDER OF PRECEDENCE**

The CMAS Terms and Conditions shall prevail if there is a conflict between the terms and conditions of the contractor's Federal GSA (or other multiple award contract), packaging, invoices, catalogs, brochures, technical data sheets or other documents (see CMAS Terms and Conditions, CONFLICT OF TERMS).

**APPLICABLE CODES, POLICIES AND GUIDELINES**

All California codes, policies and guidelines are applicable. THE USE OF CMAS DOES NOT REDUCE OR RELIEVE STATE AGENCIES OF THEIR RESPONSIBILITY TO MEET STATEWIDE REQUIREMENTS REGARDING CONTRACTING OR THE PROCUREMENT OF GOODS OR SERVICES. Most procurement and contract codes, policies, and guidelines are incorporated into CMAS contracts. Notwithstanding this, there is no guarantee that "every" possible requirement that pertains to all the different and unique state processes has been included.

**STATEWIDE PROCUREMENT REQUIREMENTS**

Agencies must carefully review and adhere to all statewide procurement requirements in the Purchasing Authority Manual, such as:

- Automated Accounting System requirements of State Administrative Manual (SAM) Section 7260-62
- Productive Use Requirements of SAM Section 5203
- SAM Sections 4819.41 and 4832 certifications for information technology procurements and compliance with policies.
- Services may not be paid for in advance.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

- Agencies are required to file with the Department of Fair Employment and Housing (DFEH) a Contract Award Report Std. 16 for each order over \$5,000 within 10 days of award, including supplements that exceed \$5,000.
- Pursuant to Public Contract Code Section 10359 state agencies are to report all Consulting Services Contract activity for the preceding fiscal year to DGS and the six legislative committees and individuals that are listed on the annual memorandum from DGS.
- Pursuant to Unemployment Insurance Code Section 1088.8, state and local government agencies must report to the Employment Development Department (EDD) all payments for services that equal \$500 or more to independent sole proprietor contractors. See the contractor's Std. Form 204, Payee Data Record, in the CMAS contract to determine sole proprietorship. All inquiries regarding this subject should be forwarded to EDD: Technical questions: 916/651-6945 or information and forms: 916/657-0529.
- Annual small business and (disabled veteran reports.
- Post evaluation reports. Public Contract Code 10369 requires state agencies to prepare post evaluations on form STD 4 for all completed consulting services contracts of more than \$5,000. Copies of negative evaluations must be sent to the DGS Office of Legal Services. The Bureau of State Audits requires state agencies annually to certify compliance with these requirements.

**ETHNICITY/RACE/GENDER REPORTING REQUIREMENT**

Effective July 1, 2002, in accordance with Public Contract Code 10116, state agencies are to capture information on ethnicity, race, and gender of business owners (not subcontractors) for all awarded contracts, including CAL-Card transactions. Each department is required to independently report this information to the Governor and the Legislature on an annual basis. Agencies are responsible for developing their own guidelines and forms for collecting and reporting this information.

Contractor participation is voluntary.

**DISCOUNTS AND QUANTITY DISCOUNTS**

See Federal GSA Schedule for discount or contact John Deere Company representative.

**PAYMENTS AND INVOICES**

**1. Payment Terms**

Payment terms for this contract are net 45 days.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

**2. Payee Data Record (Std. 204)**

Each state accounting office must have a copy of the attached Payee Data Record (Std. 204) in order to process payment of invoices. Agencies should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed.

**3. DGS Administrative Fee**

The Department of General Services (DGS) will bill each state and local agency directly an administrative fee for use of CMAS contracts. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS. This fee is waived for purchase orders to California certified small businesses.

See the current fees in the DGS Price Book at: <http://www.cfs.dgs.ca.gov/Price+Book/P/Purchasing.htm>

**4. Contractor Invoices**

Unless otherwise stipulated, the contractor must send their invoices to the agency address set forth in the purchase order. Invoices shall be submitted in triplicate and shall include the following:

- Contract number
- Agency purchase order number
- Agency Bill Code
- Line item number
- Unit price
- Extended line item price
- Invoice total

State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

The company name on the CMAS contract, purchase order and invoice must match or the State Controller's Office will not approve payment.

Ordering Instructions and Special Provisions

7

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C**

**5. Advance Payments**

Advance payment is allowed for services only under limited, narrowly defined circumstances, e.g., between specific departments and certain types of non-profit organizations, or when paying another government agency (GC 11256 - 11263 and 11019).

It is NOT acceptable to pay in advance, except software maintenance and license fees, which are considered a subscription, may be paid in advance if a provision addressing payment in advance is included in the purchase order.

Warranty upgrades and extensions may also be paid for in advance, one time.

**6. Credit Card**

John Deere Company does not accept the State of California credit card (CAL-Card).

**7. Lease/Purchase Analysis**

State agencies must complete a Lease/Purchase Analysis (LPA) to determine best value when contemplating a lease/rental, and retain a copy for future audit purposes (SAM 3710). Approval by the Department of General Services is not required.

**8. Leasing**

Except for Federal Lease to Own Purchase (LTOP) and hardware rental provisions with no residual value owed at end term (\$1 residual value is acceptable), Federal GSA Lease provisions are NOT available through CMAS because the rates and contract terms and conditions are not acceptable or applicable to the State.

SEAT Management financing options are NOT available through this contract.

As an alternative, agencies may consider financing through the State's financial marketplace GS \$Mart™. All terms and conditions and lenders are pre-approved for easy financing. The GS \$Mart™ Internet address is [www.dgs.ca.gov/pd](http://www.dgs.ca.gov/pd) then click on GS \$Mart™. Buyers without Internet access may contact the GS \$Mart™ Administrator, Pat Mullen by phone at 916/375-4617 or via e-mail at [pat.mullen@dgs.ca.gov](mailto:pat.mullen@dgs.ca.gov) for further information.

**CONTRACTOR QUARTERLY REPORTS**

Contractors are required to submit a detailed report quarterly to the DGS Procurement Division, CMAS Unit, 707 Third Street, 2<sup>nd</sup> Floor, West Sacramento, CA 95605-2811, Attention: Quarterly Report Processing. A separate report is required for each contract, as differentiated by alpha suffix (if applicable). Contractors with resellers are responsible

for reporting reseller ordering activity. Any report that does not follow the required format or that excludes information will be deemed incomplete and returned to the contractor.

To facilitate collection of administrative fees, copies of local government agency purchase orders must accompany the CMAS quarterly report. This new requirement is effective beginning the second quarter of 2005, for reports due in the CMAS office within two weeks after the end of June 2005.

New contracts for contractors with existing contracts, and extensions or renewals of existing contracts, will be approved ONLY if the contractor has submitted to the CMAS Unit all quarterly reports due. Each quarterly report is required within two weeks of the end of March, June, September, and December of each calendar year. A report is required even when there is no activity.

The report must include the agency name, purchase order number, purchase order date, agency billing code, pre-tax total order cost, agency contact name, address and phone number, and total dollars for the quarter. Tax must NOT be included in the quarterly report, even if the agency includes tax on the purchase order.

A sample quarterly report indicating required format and information is attached for your reference (Attachment A).

**CONTRACTOR PROVIDES COPY OF THE CONTRACT AND SUPPLEMENTS**

CMAS contractors are required to provide the entire contract that consists of the following:

- Cover pages with DGS logo and CMAS analyst's signature, and Ordering Instructions and Special Provisions.
- Payee Data Record (Std. 204).
- California CMAS Terms and Conditions.
- Federal GSA Terms and Conditions.
- Federal GSA products, services, and price list.
- Supplements, if applicable.

It is important for the agency to confirm that the required products, services, and prices are included in the contract and are at or below contract rates. To streamline substantiation that the needed items are in the contract, the agencies should ask the contractor to identify the specific pages from the contract that include the required products, services, and prices. Agencies should save these pages for their file documentation.

Ordering Instructions and Special Provisions

8

CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
JOHN DEERE COMPANY  
CMAS NO. 4-07-23-0007C

CONTRACTORS ACTING AS FISCAL AGENTS ARE PROHIBITED

When a subcontractor ultimately provides all of the products or performs all of the services that a contractor has agreed to provide, and the prime contractor only handles the invoicing of expenditures, then the prime contractor's role becomes that of a fiscal agent because it is merely administrative in nature, and does not provide a commercially useful function. It is unacceptable to use fiscal agents in this manner because the agency is paying unnecessary administrative costs.

AGENCY RESPONSIBILITY

Agencies must contact contractors to obtain copies of the contracts and compare them for a best value purchasing decision.

Each agency is responsible for its own contracting program and purchasing decisions, including use of the CMAS program and associated outcomes.

This responsibility includes, but is not necessarily limited to, ensuring the necessity of the services, securing appropriate funding, complying with laws and policies, preparing the purchase order in a manner that safeguards the State's interests, obtaining required approvals, and documenting compliance with Government Code 19130.b (3) for outsourcing services.

It is the responsibility of each agency to consult as applicable with their legal staff and contracting offices for advice depending upon the scope or complexity of the purchase order.

If you do not have legal services available to you within your agency, the DGS Office of Legal Services is available to provide services on a contractual basis.

CONFLICT OF INTEREST

Agencies must evaluate the proposed purchase order to determine if there are any potential conflict of interest issues.

For guidelines, see the CMAS Services Guide, Attachment B.

FEDERAL DEBARMENT

When federal funds are being expended, the agency is required to obtain (retain in file) a signed "Federal Debarment" certification from the contractor before the purchase order is issued.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

LIQUIDATED DAMAGES FOR LATE DELIVERY

The value of the liquidated damages must be included in the purchase order to be applicable, mutually agreed upon by agency and contractor, and cannot be a penalty.

ACCEPTANCE TESTING CRITERIA

If the agency wants to include acceptance testing for all newly installed technology systems, and individual equipment, and machines which are added or field modified (modification of a machine from one model to another) after a successful performance period, the test criteria must be included in the purchase order to be applicable.

SHIPPING INSTRUCTIONS

F.O.B. (Free On Board) Destination. Seller pays the freight charges.

AMERICANS WITH DISABILITY ACT (ADA)

Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22; California Government Code, Sections 11135, et seq.; and other federal and state laws, and Executive Orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities. See Attachment B for Procurement Division's ADA Compliance Policy of Nondiscrimination on the Basis of Disability.

Individual government agencies are responsible for self-compliance with ADA regulations.

Contractor sponsored events must provide reasonable accommodations for persons with disabilities.

DGS PROCUREMENT DIVISION CONTACT AND PHONE NUMBER

Department of General Services  
Procurement Division, CMAS Unit  
707 Third Street, 2<sup>nd</sup> Floor  
West Sacramento, CA 95605-2811

Phone # 916/375-4363  
Fax # 916/375-4663

Calnet # 8/480-4363