

**PARTICIPATING ADDENDUM**  
**for**  
**Public Utility Equipment and Related Accessories and Supplies**

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Participating Entity:  
**CONTRA COSTA COUNTY**

Contractor: Terex Utilities, Inc.

This Participating Addendum ("Agreement") is made and entered into as of July 8, 2025 ("Effective Date"), by and between Contra Costa County, a political subdivision of the State of California ("County"), and Terex Utilities, Inc., an Oregon corporation ("Contractor"), whose principal place of business is 3140 15<sup>th</sup> Ave. SE, Watertown, SD 57201. The County and Contractor are sometimes referred to herein together as the "Parties," and each as a "Party."

Recitals

Whereas, the Contractor sells public utility equipment and related accessories and supplies under a cooperative purchasing agreement, identified as Contract No. 110421-TER ("Master Contract"), awarded by Sourcewell, a State of Minnesota public agency, following a competitive solicitation.

Whereas, the Master Contract is made available to public agencies nationally for participation. The County has determined that entering into a Participating Addendum that incorporates the Master Contract 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, a political subdivision of the State of California.

Agreement

Now, therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and the Contractor agree, as follows:

1. Term. The term of this Agreement begins on the Effective Date, and it expires on December 27, 2025, unless sooner terminated as provided herein. The Parties may amend this Agreement to extend the term by one additional year, provided that the term of the Master Contract is extended by at least the same amount of time. If the Master Contract is terminated prior to the expiration of the term of this Agreement, or any extension thereof, the Contractor shall continue to perform under this Agreement until the term of this Agreement expires, or until this Agreement is terminated, whichever occurs first.
2. Payment Limit. The County's total payments to Contractor under this Agreement shall not exceed \$1,500,000 ("Payment Limit"). Nothing in this Agreement obligates the County to make any purchases, or any particular volume of purchases, under this Agreement. This Agreement is not exclusive, and the County expressly reserves its right to enter into other contracts for the purchase of the same or similar equipment, supplies, and materials from other vendors. If the County issues any purchase orders to make purchases under this Agreement, the County will be responsible for ensuring that the sum of all such purchase orders does not exceed the Payment Limit.
3. Changes to the Master Contract. For purposes of this Agreement only, certain terms of the Master Contract are hereby amended, as follows, to satisfy requirements that apply to the County

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as a California public agency, and to reflect the County as the contracting party under this Agreement:

- a. Each reference in the Master Contract to "Participating Entity" and "Participating Entities" shall mean and include Contra Costa County.

- b. Section 10.A. (Audit) is amended, to read:

"A. AUDIT. The County reserves the right to review books, records, documents, and accounting procedures and practices of the Contractor relevant to the County's purchases and payments during the term of this Agreement and for three (3) years following its expiration or termination. Following a request for such materials by the County or its auditor, the Contractor shall provide the County and its auditor copies of all requested materials within 30 days at the address designated by the County or its auditor. The requirements of this Section shall survive and remain enforceable for a period of three (3) years following the expiration or termination of this Agreement."

- c. Section 12 (Government Data Practices) is deleted and replaced with new Section 12 (Public Records), to read:

"**12. PUBLIC RECORDS.** The County is a California public agency that is required to comply with the California Public Records Act (Cal. Gov. Code, § 7920.000, et seq.) and the County's Better Government Ordinance (Contra Costa County Ordinance Code, Division 25), discovery requests, subpoenas, and court orders. Notwithstanding anything to the Contrary in the Master Contract, this Agreement and all materials produced for or provided to the County under this Agreement 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 if the County determines the materials are responsive to a discovery request, subpoena, or court order."

- d. Section 14 (Governing Law, Jurisdiction, and Venue) is deleted and replaced with new Section 14 (Governing Law), to read:

"**14. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of laws 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 that has jurisdiction over the parties and the subject matter of the litigation."

- e. The following sentence is added to Section 19.B. (Compliance; Licenses) of the Master Contract:

"The Contractor shall remain registered in good standing with the California Secretary of State and maintain an agent for service of process in California."

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4. Order of Precedence. If there is any conflict between any terms of this Agreement, the Master Contract, or any purchase order issued under this Agreement, the order of precedence for interpreting the Parties' obligations shall be: first, this Agreement; second, the Master Contract; and, third, any purchase order issued under this Agreement.
5. Termination. Notwithstanding anything to the contrary in the Master Contract, either Party may terminate this Agreement upon 60 days' advance written notice to the other Party.
6. 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 that has jurisdiction over the parties to and the subject matter of the litigation.
7. No Joint Venture; No Third-Party Beneficiaries; Subcontractors. 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 themselves 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 person or entity other than the County and Contractor. Notwithstanding anything to the contrary in this Agreement, if Contractor relies on any suppliers, subsidiaries, distributors, or affiliated entities (including but not limited to Terex USA, LLC, Terex GmbH, and/or Terex Services) to perform any of Contractor's obligations hereunder, Contractor shall be solely responsible for ensuring they perform in accordance with the terms of this Agreement, and Contractor shall be liable for any failure to perform in accordance with the terms of this Agreement.
8. Amendment. This Agreement may be amended or modified at any time by mutual agreement of the Parties in writing.
9. Compliance with Laws; No Public Works Permitted. In the performance of its obligations under this Agreement, the Contractor shall comply with all local, State of California, and federal laws and regulations, including all State of California wage and hour laws. Nothing in this Agreement authorizes Contractor to perform, and Contractor shall not perform, any services or work that would require formal or informal bidding under the California Public Contract Code. If any services provided by the Contractor require the payment of prevailing wages under the California Labor Code, the Contractor shall be solely responsible for ensuring prevailing wages are paid in accordance with California law, and for satisfying all requirements of the California Department of Industrial Relations.
10. Notices. Notices to the Parties shall be provided to:

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Contractor:

Jim Lohan, VP Sales and Marketing  
Terex Utilities, Inc.  
3140 15<sup>th</sup> Ave SE  
Watertown, SD 57201  
(612) 730-6927  
Email: jim.lohan@terex.com

County:

Contra Costa County-Purchasing Services  
40 Muir Road, 2<sup>nd</sup> Floor  
Martinez, CA 94553  
Telephone: (925) 655-3105  
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 delivery prepaid by the sending Party, or sent by First Class, certified mail return receipt required, U.S. Mail, with postage prepaid 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 prepaid 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. A Party may change its contact listed above by giving written notice to the other Party in any manner authorized by this Section at least five (5) days before the change becomes effective.

11. Successors and Assigns: Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns. Except for assignments to an affiliate of Contractor, 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 Participating Addendum as of the Effective Date.

Participating Entity: <b>Contra Costa County</b>	Contractor: <b>Terex Utilities, Inc.</b>
Signature:	Signature:
Name: Cynthia Shehorn	Name:
Title: Procurement Services Manager	Title:
	Signature:
	Name:
	Title:

Approved as to form:

Thomas L. Geiger, County Counsel

By: \_\_\_\_\_

Assistant County Counsel

Attachment:

Master Contract

