



Contract Number

21-387

SAP Number

Inland Counties Emergency Medical Agency

Department Contract Representative	Thomas G. Lynch
Telephone Number	909-388-5823
Contractor	State of California, California Highway Patrol
Contractor Representative	Jacquelyn Ngo, Commander Business Services Section
Telephone Number	916-843-3610
Contract Term	July 1, 2021 - June 30, 2026
Original Contract Amount	\$20,000
Amendment Amount	
Total Contract Amount	\$20,000
Cost Center	1110002686

This is a revenue agreement with the State of California, Department of California Highway Patrol, Air Operations, in the amount of \$20,000 (\$4,000.00 per year) to allow access to the ICEMA data system for statewide inclusion into national database, for the period of July 1, 2021 to June 30, 2026.

FOR COUNTY USE ONLY

Approved as to Legal Form

► 
John Tubbs II, Deputy County Counsel

Date 5/5/21

Reviewed for Contract Compliance

► _____

Date _____

Reviewed/Approved by Department

► 
Thomas G. Lynch, EMS Administrator

Date 5-8-21

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

21C018005

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTOR NAME

Inland Counties Emergency Medical Services Agency

2. The term of this Agreement is:

START DATE

07/01/2021

THROUGH END DATE

06/30/2026

3. The maximum amount of this Agreement is:

\$20,000.00 (Twenty Thousand Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Access Agreement	12
Exhibit B	Budget Details and Budget Provisions	1
Exhibit C *	General Terms and Conditions - 04/2017 (Except herein as amended)	4
+		
-		

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Inland Counties Emergency Medical Services

CONTRACTOR BUSINESS ADDRESS

1425 South D Street

CITY

San Bernardino

STATE

CA

ZIP

92415

PRINTED NAME OF PERSON SIGNING

Curt Hagman

TITLE

Chair, Board of Directors

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

MAY 18 2021

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTING AGENCY ADDRESS

601 N. 7th Street

CITY

Sacramento

STATE

CA

ZIP

95811

PRINTED NAME OF PERSON SIGNING

Jacquelyn Ngo

TITLE

Commander, Business Services Section

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

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STATE

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ZIP

95811

PRINTED NAME OF PERSON SIGNING

Jacquelyn Ngo

TITLE

Commander, Business Services Section

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

6/8/2021

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

APPROVED

JUL 12, 2021

MAM:ji

OFFICE OF LEGAL SERVICES
DEPT. OF GENERAL SERVICES

EXEMPTION (If Applicable)

EMERGENCY MEDICAL SERVICES DATA SYSTEM ACCESS

This CONTRACT is hereby entered into by and between **INLAND COUNTIES EMERGENCY MEDICAL AGENCY** (hereinafter referred to as "**ICEMA**") and **CALIFORNIA HIGHWAY PATROL** (hereinafter referred to as "**CHP**"), to provide access to the ICEMA Emergency Medical Services (EMS) data system. ICEMA and CHP are hereinafter collectively referred to as the "Parties".

WHEREAS, ICEMA, through a Joint Powers Agreement, is the local emergency medical services agency (LEMSA) for the Counties of Inyo, Mono, and San Bernardino; and

WHEREAS, ICEMA owns a suite of EMS specific data collection tools designed to collect and share health information between provider agencies and hospitals. This network, provides the framework necessary for the collection and exchange of health information between EMS providers, hospitals, LEMSAs, the State Data Repository and federal agencies; and

WHEREAS, ICEMA agrees to extend the access to the ICEMA EMS data system to CHP and

WHEREAS, the CHP agrees to comply with the terms and conditions as expressed herein;

NOW, THEREFORE, ICEMA AND CHP agree as follows:

1. DEFINITIONS

- 1.1 California EMS Information System (CEMSIS):** The California Data Repository for the collection of EMS patient care data.
- 1.2 Electronic Patient Care Report (ePCR):** Method for the electronic documentation of patient care.
- 1.3 Elite:** A part of ICEMA EMS data system that includes EMS web-based ePCR collection.
- 1.4 Elite Field:** A part of ICEMA EMS data system that includes an optional mobile ePCR for data collection in real time.
- 1.5 Hospital Dashboard/Hospital Hub:** Provides hospitals with notification and a copy of the ePCR for inbound patients; increases hospital readiness with a complete ePCR for inbound patients; provides view of inbound patients from multiple services simultaneously; provides first step in health information exchange.
- 1.6 Software Abstract:** ICEMA's EMS data system software (Elite) contains and stores the data elements of an emergency medical database, including data schema and values that may originate from traditional computer aided dispatch (CAD) sources and data values that may be used in billing from prehospital patient care reports.

2. TERM OF CONTRACT

The term of the CONTRACT is effective as of July 1, 2021 and expires June 30, 2026, but may be terminated earlier in accordance with provisions of this CONTRACT.

Each party reserves the right to terminate the CONTRACT, for any reason, with a thirty (30) day written notice of termination. Upon receipt of termination notice the noticed party shall promptly discontinue services unless the notice directs otherwise.

3. FISCAL PROVISIONS

CHP shall be assessed an annual access and maintenance fee in the amount of \$4,000, due and payable on July 1st of each year. Fees are not refundable or prorated if the CONTRACT is terminated.

4. CHP's RESPONSIBILITIES

- 4.1 Ensure setup of provider agencies' specific parameters, such as permission groups and service rights.
- 4.2 Ensure setup and maintenance of provider agencies' permissions, user IDs, and passwords.
- 4.3 Ensure that all information necessary for each provider agencies' setup, such as staff, vehicles, and stations, are input correctly.
- 4.4 Configure service defined questions.
- 4.5 Ensure that data reported to the State or other legal entities meets minimum standards and guidelines.
- 4.6 Ensure accurate reporting functions particular to the jurisdictional region.
- 4.7 Monitor provider agencies' actions and data input.

5. ICEMA's RESPONSIBILITIES

- 5.1 Provide CHP access to ICEMA's EMS data system utilizing the EMS web-based data collection program (Elite) for non-real-time entry of patient care reports.
- 5.2 Provide CHP access to ICEMA's EMS data system utilizing the EMS field-based data collection program (Elite Field) for real-time entry of patient care reports.
- 5.3 Configure necessary system parameters to enable providers within the jurisdictional region of the CHP to enter patient specific care data using the Elite Field or Elite to collect real-time or near-time details using CEMSIS data elements.
- 5.4 Provide CHP and approved providers access to ICEMA's EMS data system to generate reports necessary for process improvement.

- 5.5 Enable CHP to submit data to CEMSIS.
- 5.6 Provide hospitals within the jurisdictional boundaries of CHP, access to the Hospital Hub to provide the exchange of patient information prior to patient arrival at Hospital.
- 5.7 Provide first line user (CHP and provider agencies) support Monday - Friday, 7:00 am - 4:30 pm Pacific Time. ImageTrend will provide all secondary user support Monday - Friday, 8:30 am - 4:00 pm Central Time.
- 5.8 ICEMA will not be responsible for importing any data from CHP's prior data systems.
- 5.9 ICEMA's EMS data system maintenance and upgrades, if applicable, are included in the ongoing support as contracted. This ensures continued attention to system performance, general maintenance and scheduled system upgrades. CHP will be notified in advance of scheduled maintenance. It is the CHP's responsibility to accept all updates and upgrades to ICEMA's EMS data system. All code releases also maintain the integrity of any CHP specific configurations (templates, addresses, staff information, etc.) that have been implemented either by ICEMA's staff or CHP's administrative staff.
- 5.10 ICEMA will work with CHP as needed to develop queries and special reports, within the capabilities of the software, as requested in writing by CHP.
- 5.11 ICEMA agrees to promptly address program issues or problems reported by CHP and/or CHP's data system users. All software defects are the responsibility of the software vendor to correct.

6. GENERAL CONTRACT REQUIREMENTS

6.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

6.2 Contract Amendments

CHP agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of CHP and ICEMA.

6.3 Contract Assignability

Without the prior written consent of ICEMA, the Contract is not assignable by CHP either in whole or in part.

6.4 Contract Exclusivity

This is not an exclusive Contract. ICEMA reserves the right to enter into a contract with other contractors for the same or similar services. ICEMA does not guarantee or represent that the CHP will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

6.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any Party's rights hereunder, each Party shall bear its own costs and attorney fees, regardless of who is the prevailing Party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a Party hereto and payable under Indemnification and Insurance Requirements.

6.6 Reserved.

6.7 Change of Address

CHP shall notify ICEMA in writing, of any change in mailing address within ten (10) business days of the change.

6.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

6.9 Reserved.

6.10 Confidentiality

The Parties shall comply with applicable Federal, State, and local laws, rules, and regulations, and ICEMA policies and procedures in effect at the inception of this Contract or that become effective during the term of this Contract, including, but not limited to, facility and professional licensing, and or certification laws and regulations, the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. section 1320d et seq.), and the Emergency Medical Treatment and Active Labor Act (42 U.S.C. section 1395dd).

6.11 Primary Point of Contact

CHP will designate an individual to serve as the primary point of contact for the Contract. CHP or designee must respond to ICEMA inquiries within two (2) business days. CHP shall not change the primary contact without written acknowledgement to ICEMA. CHP will also designate a back-up point of contact in the event the primary contact is not available.

6.12 Reserved.

6.13 ICEMA Representative

The EMS Administrator of his/her designee shall represent ICEMA in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by CHP. If this Contract was initially approved by the ICEMA Board of Directors, then the ICEMA Board of Directors must approve all amendments to this Contract.

6.14 Reserved.

6.15 Debarment and Suspension

The CHP certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). The CHP further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

6.16 Reserved.

6.17 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective Parties, provided no such assignment is in violation of the provisions of this Contract.

6.18 Reserved.

6.19 Reserved.

6.20 Improper Influence

CHP shall make all reasonable efforts to ensure that no ICEMA and/or County officer or employee, whose position in ICEMA enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the CHP or officer or employee of the CHP.

6.21 Improper Consideration

CHP shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of ICEMA in an attempt to secure favorable treatment regarding this Contract.

ICEMA, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of ICEMA with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

CHP shall immediately report any attempt by an ICEMA employee or agent to solicit (either directly or through an intermediary) improper consideration from CHP. The report shall be made to the supervisor or manager charged with supervision of the employee or ICEMA. In the event of a termination under this provision, ICEMA is entitled to pursue any available legal remedies.

6.22 Informal Dispute Resolution

In the event ICEMA determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the Parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties.

6.23 Legality and Severability

The Parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

6.24 Reserved.

6.25 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, ICEMA determines that CHP has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to ICEMA, this Contract may be immediately terminated. If this Contract is terminated according to this provision, ICEMA is entitled to pursue any available legal remedies.

6.26 Mutual Covenants

The Parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

6.27 Reserved.

6.28 Notice of Delays

Except as otherwise provided herein, when either Party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that Party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other Party.

6.29 Reserved.

6.30 Reserved.

6.31 Reserved.

6.32 Reserved.

6.33 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

6.34 Reserved.

6.35 Representation of ICEMA

In the performance of this Contract, the Parties, their agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the other Party.

6.36 Strict Performance

Failure by a Party to insist upon the strict performance of any of the provisions of this Contract by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Contract thereafter.

6.37 Subcontracting

CHP agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from ICEMA. Any subcontracting shall be subject to the same terms and conditions as CHP. CHP shall be fully responsible for the performance and payments of any subcontractor's Contract.

6.38 Reserved.

6.39 Reserved.

6.40 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

6.41 Venue

The Parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The Parties agree that the venue of any action or claim brought by any Party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each Party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

6.42 Conflict of Interest

CHP shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and ICEMA. CHP shall make a reasonable effort to prevent employees, CHP, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event ICEMA determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by ICEMA and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom CHP's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

6.43 Former County/ICEMA Administrative Officials

CHP agrees to provide, or has already provided information on former ICEMA and/or County of San Bernardino administrative officials (as defined below) who are employed by or represent CHP. The information provided includes a list of former County administrative officials who terminated ICEMA and/or County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of CHP. For purposes of this provision, "ICEMA and/or County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

6.44 Reserved.

6.45 Reserved.

6.46 Reserved.

6.47 Reserved.

6.48 Reserved.

6.49. Reserved.

6.50 Public Health Authority

ICEMA is a public health authority as that term is defined in 45 CFR 164.501, and is authorized by law to collect and receive protected health information as set forth in 45 CFR 164.512.

6.51 No Third-Party Beneficiaries

The Parties do not intend to confer and this Contract shall not be construed to confer any rights to any person, group, corporation or entity other than the Parties.

6.52 Data Ownership and Data Protection

All CHP data collected remains at all times the property of the CHP. ICEMA will not use or make available any personally identifiable information other than for administering the CHP's account and for reporting to the State EMS Authority. During the term of this CONTRACT and after termination or expiration of the CONTRACT, ICEMA will not in any way transfer to any third-party other than as required for State and/or Federal reporting purposes, unless requested by CHP in writing.

6.53 Data Configuration

ICEMA agrees to host certain data using standardized software abstract configuration.

7. INDEMNIFICATION (supersedes Exhibit C, Item 5)

7.1 CHP agrees to defend and hold harmless the ICEMA, its officers, employees, agents, and volunteers for any and all claims, losses, actions, damages and/or liability arising out of any negligent act or omission of the CHP, its officers, employees, agents or volunteers while performing its duties under this CONTRACT, including any costs or expenses incurred by the ICEMA, except as prohibited by law.

- 7.2 ICEMA agrees to defend and hold harmless the CHP, its officers, employees, agents, and volunteers for any and all claims, losses, actions, damages and/or liability arising out of any negligent act or omission of the ICEMA, its officers, employees, agents or volunteers while performing its duties under this CONTRACT, including any costs or expenses incurred by the CHP, except as prohibited by law.
- 7.3 In the event that the ICEMA and/or CHP are determined to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this CONTRACT, ICEMA and/or CHP shall indemnify the other to the extent of its comparative fault.

8. INSURANCE

ICEMA and CHP are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this CONTRACT.

9. CORRECTION OF PERFORMANCE DEFICIENCIES

- 9.01 Failure by either party to comply with any of the provisions, covenants, requirements or conditions of this CONTRACT shall be a material breach of this CONTRACT.
- 9.02 In the event of a non-cured breach, ICEMA may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this CONTRACT:
- A. Afford CHP thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of ICEMA; and/or
 - B. Terminate this CONTRACT for cause, by giving written notice specifying the effective date and reason which shall be not less than fifteen (15) days after the delivery of the written notice.
- 9.03 Any remaining fees owed ICEMA as a result of the termination shall be invoiced to the CHP and shall become immediately due and payable.

10. NOTICES

All written notices provided for in this CONTRACT or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

To ICEMA:

EMS Administrator
ICEMA
1425 South "D" Street
San Bernardino, CA 92415-0060

To CHP:

California Highway Patrol
Office of Air Operations
Ron Wilson, Paramedic Coordinator
601 N. Seventh Street
Sacramento, CA 95823
916-843-3303

California Highway Patrol
Contract Services Unit
Tessa Gomez
601 N. Seventh Street
Sacramento, CA 95823
916-843-3613

11. ENTIRE CONTRACT

This CONTRACT, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the Parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this CONTRACT not expressly set forth herein are of no force or effect. This CONTRACT is executed without reliance upon any promise, warranty or representation by any Party or any representative of any Party other than those expressly contained herein. Each Party has carefully read this CONTRACT and signs the same of its own free will.

12. ELECTRONIC SIGNATURE COUNTERPARTS

This CONTRACT may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same CONTRACT. The Parties shall be entitled to sign and transmit an electronic signature of this CONTRACT (whether by facsimile, PDF or other email transmission), which signature shall be binding on the Party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other Party an original signed CONTRACT upon request.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the state agrees to compensate the Contractor in accordance with the rates specified herein.
- B. Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to:

Name:	Ron Wilson
Office:	CHP Office of Air Operations
Address:	601 N. 7 th Street Sacramento, CA 95811

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the state shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the state shall have the option to either cancel this Agreement with no liability occurring to the state, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Payment Provisions

See Exhibit A, Item 3, FISCAL PROVISIONS

GTC 04/2017

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: ~~Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.~~ **See Exhibit A, Item 7**
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)