

Attachment 2

Master Service Agreements

1. Granicus, LLC
2. MarBorg Industries
3. Tetra Tech, Inc.
4. Cellco Partnership dba Verizon Wireless

Section 1
Master Service Agreement: Granicus, LLC

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Granicus, LLC

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY") and Granicus, LLC, a Minnesota limited liability company ("CONTRACTOR" and together with COUNTY, collectively, the "Parties" and each a "Party"), whose principal place of business is located at 408 Saint Peter Street, Suite 600, Saint Paul, MN 55102.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and is willing to perform such services, and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Sarah Witmer, whose phone number is 805-568-2691, and whose email address is switmer@countyofsb.org, is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY (provided, however, that such COUNTY representative shall not have the authority to approve or execute additional Statements of Work or any other amendment to or of this Agreement). Alex Bern, whose phone number is 800-312-0147, and whose email address is alex.bern@granicus.com, is the authorized representative of CONTRACTOR who is duly authorized to administer this Agreement for and on behalf of CONTRACTOR. Changes to a Party's designated representative shall be made only after advance written notice to the other Party in accordance with Section 2, below.

2. NOTICES

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each, a "Notice") shall be in writing and addressed to the receiving Party at the address for such Party set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section 2), by personal delivery, facsimile, by first class mail via the United States Postal Service ("USPS"), registered or certified mail, or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: Sarah Witmer
General Services, Procurement Services
260 N San Antonio Rd
Santa Barbara, CA 93110

To CONTRACTOR: Contracts
Granicus, LLC
1152 15th St. NW, Ste 800
Washington, DC 20005

If sent by first class mail, Notices shall be deemed to be received five (5) days following their deposit in the USPS mail. This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR shall provide to COUNTY the services (the "Services") set forth in statements of work to be issued by COUNTY and accepted by CONTRACTOR (each, a "Statement of Work"). The initial Statements of Work are attached

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hereto as Exhibits A-1, A-2, A-3 and A-4, and incorporated herein by reference. Additional Statements of Work substantially in the same form as the Statements of Work attached hereto shall be deemed accepted and incorporated into this Agreement during the Term (defined below) only if signed by each Party's duly authorized designated representative. For purposes of this Agreement, the COUNTY Purchasing Agent is the duly authorized designated representative of the COUNTY who is duly authorized to accept and sign such additional Statements of Work on behalf of COUNTY.

4. TERM

The term of this Agreement ("Term") shall commence upon the first date that this Agreement is duly executed by all of the parties hereto ("Effective Date") and shall terminate on June 30, 2025, unless earlier terminated in accordance with the provisions of this Agreement.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance of the Services under this Agreement in accordance with the terms of EXHIBIT B, attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY, delivered to COUNTY at the address for Notices to COUNTY set forth in Section 2, above, following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B Annual subscription fees are due upfront on the Effective Date of this Agreement. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from delivery of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees) shall perform all of the Services under this Agreement as an independent contractor as to COUNTY, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations hereunder in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the Term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement. CONTRACTOR has no authority to commit, act for or on behalf of COUNTY, or to bind COUNTY to any obligation or liability.

7. STANDARD OF PERFORMANCE

CONTRACTOR certifies that it has the skills, expertise, and all licenses and permits necessary to perform the Services. Accordingly, CONTRACTOR shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the highest standards of quality observed by professionals practicing in CONTRACTOR's profession. CONTRACTOR shall correct any errors or omissions in the performance of the Services, at COUNTY'S request without additional compensation. CONTRACTOR has and shall, at CONTRACTOR's sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR's obligations under this

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Agreement. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement, and shall make any and all payroll deductions required by law. CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items provided solely and exclusively to COUNTY pursuant to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR provided to COUNTY solely and exclusively pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any

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intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

CONTRACTOR'S products and services are purchased by COUNTY as subscriptions. CONTRACTOR hereby grants and COUNTY hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the CONTRACTOR'S products and services during the term of this Agreement. CONTRACTOR reserves all right, title and interest in the products and services, the documentation and resulting product including all related intellectual property rights. No implied licenses are granted to COUNTY. The Granicus name, logo, and the product names are trademarks of CONTRACTOR, and no right or license is granted to use them. COUNTY assigns to CONTRACTOR any suggestion, enhancement, request, recommendation, correction or other feedback provided by COUNTY relating to the use of the CONTRACTOR'S products and services. COUNTY shall not: (i) Misuse any CONTRACTOR resources or cause any disruption, including but not limited to, the display of adult content, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted; (ii) Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of third parties; (iii) Use the CONTRACTOR'S products and services in a manner in which system or network resources are unreasonably denied to third parties; (iv) Use the products and services as a door or signpost to another server; (v) Access or use any portion of CONTRACTOR'S products and services except as expressly allowed by this Agreement; (vi) Disassemble, decompile, or otherwise reverse engineer all or any portion of the CONTRACTOR'S products and services; (vii) Use the CONTRACTOR'S products and services for any unlawful purposes; (viii) Export or allow access to the CONTRACTOR'S products and services in violation of U.S. laws or regulations; (ix) subcontract, disclose, rent, or lease the CONTRACTOR'S products and services, or any portion thereof, for third party use; or (x) Modify, adapt, or use the CONTRACTOR'S products and services to develop any software application intended for resale which uses the CONTRACTOR'S products and services in whole or in part.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

13. COUNTY PROPERTY AND INFORMATION

It is expected that one Party may disclose to the other Party certain information which may be considered confidential or trade secret information ("Confidential Information"). Confidential Information shall include: (i) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (ii) non-public information of a Party if it is identified as confidential or proprietary before, during, or promptly after presentation and (iii) any information that should be reasonably understood to be confidential or proprietary to a Party, given the nature of the information and the context in which disclosed.

Subject to applicable law, each Party agrees to receive and hold any Confidential Information in strict confidence. Each Party also agrees: (i) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (ii) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the other Party; (iii) not to use any Confidential Information for any purpose other than for performance under this Agreement; (iv) to restrict access to

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Confidential Information to those of its employees, agents, and contractors who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (v) to exercise at least the same standard of care and security to protect the Confidential Information received by it as it protects its own confidential information. If a Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the other Party as promptly as practicable so that such Party may seek a protective order or waiver for that instance.

Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of either Party; (ii) was in a Party's possession before receipt from the other Party; (iii) is rightfully received by a Party from a third party without any duty of confidentiality; (iv) is independently developed by a Party without use or reference to the other Party's Confidential Information; or (v) is disclosed with the prior written consent of the Parties.

Each Party shall return or destroy the Confidential Information upon written request by the other Party; provided, however, that each Party may retain one copy of the Confidential Information in order to comply with applicable law. Client understands and agrees that it may not always be possible to completely remove or delete all Confidential Information from Granicus' databases without some residual data.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to and shall comply with the indemnification and insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

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17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, subcontract, delegate, or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer") this Agreement, or any of CONTRACTOR's rights or obligations under this Agreement, without the prior written consent of COUNTY. Any attempted or purported Transfer in violation of this Section 18 shall be null and void and without legal effect and shall constitute grounds for termination. No Transfer shall relieve CONTRACTOR of any of its obligations hereunder.

19. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill its obligations hereunder.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, State or COUNTY governments, or sufficient funds are not otherwise available for payments hereunder in the fiscal year(s) covered by the Term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence, and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of the provisions hereof and fail to cure such default within thirty (30) days written notice from COUNTY, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part upon written notice ("Termination Notice"). Upon receipt of such Termination Notice, CONTRACTOR shall immediately discontinue all Services (unless otherwise directed in such Termination Notice) and notify COUNTY in writing of the status of CONTRACTOR's performance of Services hereunder. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise. All prepaid fees that are pending at the time of termination will be reimbursed back to the CONTRACTOR.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option, terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written Notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as

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COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory Services performed as of the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the Maximum Contract Amount (defined below), or for profit on unperformed portions of Services. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the Services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the Services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to the parties hereto shall be exercised from time to time and as often as allowable under the terms and conditions of this Agreement.

25. ENTIRE AGREEMENT AND AMENDMENT

This Agreement, including all Exhibits attached hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof, and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, duly executed by each of the Parties and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns in accordance with Section 18, above.

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27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all applicable County, State and Federal ordinances and statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. WARRANTY

CONTRACTOR warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the products and services provided hereunder; however, the products and services are provided "AS IS" and as available. EXCEPT AS PROVIDED ABOVE, EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS AND SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

33. REQUIRED FEDERAL PROVISIONS

The parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in Exhibit D (Required Federal Provisions), attached hereto and incorporated herein by reference.

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34. ORDER OF PRECEDENCE

In the event of conflict between the provisions contained in Sections 1 through 33 of this Agreement (“Numbered Sections”) and the provisions contained in the Exhibits, the provisions contained in the Numbered Sections shall control and prevail over those in the Exhibits, other than Exhibit C and D , which Exhibit C and D shall control and prevail. If any Statement of Work, or quotes provided by CONTRACTOR incorporated into a Statement of Work, include any standard terms from CONTRACTOR, or any hyperlinks to standard terms or other provisions from CONTRACTOR (“CONTRACTOR’s Terms”), CONTRACTOR agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between (a) the COUNTY’s terms set forth in the Numbered Sections and Exhibits A, B, C, D, and E hereto (“County’s Terms”), and (b) CONTRACTOR’s Terms, the County’s Terms shall take precedence and control, followed by (i) task orders issued by COUNTY pursuant to a Statement of Work, and then (ii) CONTRACTOR’s Terms, if any.

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

APPROVED AS TO FORM:

Rachel Van Mullem

County Counsel

Signed by:
By: Tyler Sprague
0AC36B8DE43F483...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA, CPFO

Auditor Controller

DocuSigned by:
By: [Signature]
6BAAEA15901943F...
Deputy

APPROVED AS TO FORM:

Gregory Milligan

Risk Management

DocuSigned by:
By: Gregory Milligan
05F555F00289400...
Risk Manager

BOARD AUTHORIZATION EXECUTION:

Date: 08/20/2024

Minute Order Number:

APPROVED AS TO FORM:

Phung Loman

General Services – Procurement Services

By: _____
Chief Procurement Officer

CONTRACTOR:

Granicus, LLC

DocuSigned by:
By: Alex Bern
0F7DAA9D3DAD473...
Authorized Representative

Name: Alex Bern

Title: Contracts Manager

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EXHIBIT A-1

GENERAL STATEMENT OF WORK

Granicus, LLC

Granicus provides online services, website & CMS, digital communications strategies, public meeting experience, and records management.

The following services shall be available during the Term at the respective rates set forth in this Exhibit A-1:

- DisclosureDocs Maintenance and Support
 - DisclosureDocs™ is your robust desktop application that provides numerous features to help you manage your Filers, Conflict of Interest Code changes, Full and Facial Reviews, generate Letters, Emails, business process Reports and manage your corresponding Public Access and Electronic Filing components.
- CampaignDocs Web Publishing Maintenance and Support
 - CampaignDocs WebPublisher™ module the public has access to redacted copies of the filings on the web. The public is able to search, view and print from their own computer without the need of using your agency's resources.
- System Hosting
 - System Hosting
- CampaignDocs Maintenance and Support
 - CampaignDocs™ is a powerful desktop system used by the ROV staff that provides numerous features to help you manage your Campaign Filers, generate letters, emails, run reports on Filings, scan paper filing and receive Electronic Filings submitted by the filers that use eCampaign Module.
- eCampaign Maintenance and Support
 - eCampaign™ system is a benefit to your filers. Your filers will be able to use our data screens to enter their contributions / expenditures as they occur and file their forms by the due date. The system will validate the information and summarize all the information on the forms. There are several tools that will help your Filer properly file their filings.
- eDisclosure Maintenance and Support
 - eDisclosure Module Software Maintenance and Support Fee
- ADFS/Single Sign-on Module
 - GovQA Single Sign On (SSO) connection serves as an integration with an organization's existing ADFS or Single Sign On (SSO)
- FOIA Module Non-Enterprise
 - Assist government entities in processing records requests. The processes are based on specific state laws
- Fortress Hosting
 - Legacy - Fortress Hosting
- Redaction License (per named user)
 - Redaction License (per named user)
- Upgrade to SDI 720p Streaming
 - Upgrade to SDI 720p Streaming (requires Digital encoder and HD feed)
- eComment

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- eComment reduces staff time by providing the ability to effortlessly collect and manage citizen input on agenda items. Citizens are allowed to either submit comments in regards to items or sign up to speak before a scheduled meeting.
- Government Transparency Suite
 - Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, and indexing of events.
- Open Platform Suite
 - Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage.
- Granicus Encoding Appliance Software (GT)
 - Granicus Encoding Appliance Software (GT) This includes the LiveManager Software solution where webcasts are started/stopped, agendas amended and indexed, votes and attendance recorded, and minutes created.
- Boards and Commissions
 - Boards and Commissions is a Software-as-a-Service (SaaS) solution that enables government organizations to simplify the citizen application and appointment to boards process of the clerk's office. Boards and Commissions includes:
 - Unlimited user accounts
 - Unlimited boards, commissions, committees, and subcommittees
 - Unlimited storage of citizen applications
 - Access to up to one (1) Boards and Commissions site
 - Access to customizable, embeddable iFrame websites for displaying information to citizens
 - Access to a customizable online citizen application form including board specific questions
 - Customizable forms for board details, appointment details, and internal tracking details
 - Pre-designed document PDFs for applications, board details and rosters, and vacancy reports
 - Downloadable spreadsheets for easy reporting
 - *Optional custom templates for document or report generation may also be purchased for an additional fee*
- Legistar
 - Legistar is a Software-as-a-Service (SaaS) solution that enables government organizations to automate the entire legislative process of the clerk's office. Clerks can leverage Legistar to easily manage the entire legislative process from drafting files, through assignment to various departments, to final approval. Legistar includes:
 - Unlimited user accounts
 - Unlimited meeting bodies and meeting types
 - Unlimited data storage and retention
 - Up to one (1) Legistar database
 - Up to one (1) InSite web portal
- Open Platform Suite
 - Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage.

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Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
DisclosureDocs Maintenance and Support	Annual	1 Each	\$11,857.88
CampaignDocs Web Publishing Maintenance & Support	Annual	1 Each	\$1,844.93
System Hosting	Annual	1 Each	\$2,385.37
CampaignDocs Maintenance & Support	Annual	1 Each	\$8,537.30
eCampaign Maintenance and Support	Annual	1 Each	\$5,570.72
System Hosting	Annual	1 Each	\$1,445.67
eDisclosure Maintenance and Support	Annual	1 Each	\$7,815.16
System Hosting	Annual	1 Each	\$2,684.83
Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
ADFS/Single Sign-on Module	Annual	1 Each	\$3,464.01
FOIA Module Non Enterprise	Annual	1 Each	\$13,296.12
Fortress Hosting	Annual	1 Each	\$5,063.73
Redaction License (per named user)	Annual	1 Each	\$726.04
Upgrade to SDI 720p Streaming	Annual	1 Each	\$4,813.97
eComment	Annual	1 Each	\$5,130.95
Government Transparency Suite	Annual	1 Each	\$17,545.35
Open Platform Suite	Annual	1 Each	\$0.00
Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,925.59
Upgrade to SDI 720p Streaming	Annual	1 Each	\$5,644.70
Boards and Commissions	Annual	1 Each	\$26,780.71
Legistar	Annual	1 Each	\$37,242.75
VoteCast Standard Package (iLegislate)	Annual	1 Each	\$17,579.52
Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,465.98
Meeting Efficiency Suite	Annual	1 Each	\$15,382.08

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EXHIBIT A-2

STATEMENT OF WORK
COUNTY Clerk Recorder Accessor (“CRA”)

County CRA personnel authorized to administer services provided under this Exhibit A-2:

Melinda Greene – Chief Deputy Clerk-Recorder, mgreene@countyofsb.org

Michael Daly – Chief Deputy Accessor & Registrar of Voters, mdaly@countyofsb.org

Term: July 1, 2024 - June 30, 2025

Granicus shall provide to CRA the services listed below in this Exhibit A-2 during the Term at the respective rates set forth below.

Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
DisclosureDocs Maintenance and Support	Annual	1 Each	\$11,857.88
CampaignDocs Web Publishing Maintenance & Support	Annual	1 Each	\$1,844.93
System Hosting	Annual	1 Each	\$2,385.37
CampaignDocs Maintenance & Support	Annual	1 Each	\$8,537.30
eCampaign Maintenance and Support	Annual	1 Each	\$5,570.72
System Hosting	Annual	1 Each	\$1,445.67
eDisclosure Maintenance and Support	Annual	1 Each	\$7,815.16
System Hosting	Annual	1 Each	\$2,684.83
SUBTOTAL:			\$42,141.86

Number of Filers:
1515

Solution	Description
DisclosureDocs Maintenance and Support	DisclosureDocs™ is your robust desktop application that provides numerous features to help you manage your Filers, Conflict of Interest Code changes, Full and Facial Reviews, generate Letters, Emails, business process Reports and manage your corresponding Public Access and Electronic Filing components.
CampaignDocs Web Publishing Maintenance & Support	CampaignDocs WebPublisher™ module the public has access to redacted copies of the filings on the web. The public is able to search, view and print from their own computer without the need of using your agency’s resources.
System Hosting	System Hosting

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CampaignDocs Maintenance & Support	CampaignDocs™ is a powerful desktop system used by the ROV staff that provides numerous features to help you manage your Campaign Filers, generate letters, emails, run reports on Filings, scan paper filing and receive Electronic Filings submitted by the filers that use eCampaign Module.
eCampaign Maintenance and Support	eCampaign™ system is a benefit to your filers. Your filers will be able to use our data screens to enter their contributions / expenditures as they occur and file their forms by the due date. The system will validate the information and summarize all the information on the forms. There are several tools that will help your Filer properly file their filings.
System Hosting	System Hosting
eDisclosure Maintenance and Support	eDisclosure Module Software Maintenance and Support Fee
System Hosting	System Hosting

Exhibit A-2 Statement of Work maximum aggregate amount: \$42,141.86

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EXHIBIT A-3

**STATEMENT OF WORK
COUNTY Clerk of the Board (“COB”)**

County COB personnel authorized to administer services provided under this Exhibit A-3:

Dawn Holden – Business Manager, dholden@countyofsb.org

Jacquelyne Alexander – Chief Deputy COB, jalexander@countyofsb.org

Chelsea Lenzi – Deputy Clerk, clenzi@countyofsb.org

Term: July 1, 2024 - June 30, 2025

Granicus shall provide the COB services listed below in this Exhibit A-3 during the Term at the respective rates set forth below.

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Boards and Commissions	Annual	1 Each	\$26,780.71
Legistar	Annual	1 Each	\$37,242.75
Open Platform Suite	Annual	1 Each	\$0.00
SUBTOTAL:			\$64,023.46

Solution	Description
Boards and Commissions	<p>Boards and Commissions is a Software-as-a-Service (SaaS) solution that enables government organizations to simplify the citizen application and appointment to boards process of the clerk’s office. Boards and Commissions includes:</p> <ul style="list-style-type: none"> • Unlimited user accounts • Unlimited boards, commissions, committees, and subcommittees • Unlimited storage of citizen applications • Access to up to one (1) Boards and Commissions site • Access to customizable, embeddable iFrame websites for displaying information to citizens • Access to a customizable online citizen application form including board-specific questions • Customizable forms for board details, appointment details, and internal tracking details • Pre-designed document PDFs for applications, board details and rosters, and vacancy reports • Downloadable spreadsheets for easy reporting <p><i>Optional custom templates for document or report generation may also be purchased for an additional fee.</i></p>

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Legistar	<p>Legistar is a Software-as-a-Service (SaaS) solution that enables government organizations to automate the entire legislative process of the clerk’s office. Clerks can leverage Legistar to easily manage the entire legislative process from drafting files, through assignment to various departments, to final approval. Legistar includes:</p> <ul style="list-style-type: none"> • Unlimited user accounts • Unlimited meeting bodies and meeting types • Unlimited data storage and retention • Up to one (1) Legistar database <p>Up to one (1) InSite web portal</p>
Open Platform Suite	<p>Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage.</p>

Exhibit A-3 Statement of Work maximum aggregate amount: \$64,023.46

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EXHIBIT A-4

STATEMENT OF WORK

COUNTY’s Information Technology Department (“ITD”)

County ITD personnel authorized to administer services provided under this Exhibit A-4:

Rodrick Bolden – Network and Communications Manager, rbolden@countyofsb.org

Onelia Rodriguez – Finance Manager, onrodriguez@countyofsb.org

Term: July 1, 2024 - June 30, 2025

Granicus shall provide to ITD the services listed below in this Exhibit A-4 during the Term at the respective rates set forth below.

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
ADFS/Single Sign-on Module	Annual	1 Each	\$3,464.01
FOIA Module Non Enterprise	Annual	1 Each	\$13,296.12
Fortress Hosting	Annual	1 Each	\$5,063.73
Redaction License (per named user)	Annual	1 Each	\$726.04
SUBTOTAL:			\$22,549.90

Solution	Description
ADFS/Single Sign-on Module	GovQA Single Sign On (SSO) connection serves as an integration with an organization’s existing ADFS or Single Sign On (SSO)
FOIA Module Non Enterprise	Assist government entities in processing records requests. The processes are based on specific state laws
Fortress Hosting	Legacy - Fortress Hosting
Redaction License (per named user)	Redaction License (per named user)

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Upgrade to SDI 720p Streaming	Annual	1 Each	\$4,813.97
eComment	Annual	1 Each	\$5,130.95
Government Transparency Suite	Annual	1 Each	\$17,545.35
Open Platform Suite	Annual	1 Each	\$0.00

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Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,925.59
Upgrade to SDI 720p Streaming	Annual	1 Each	\$5,644.70
VoteCast Standard Package (iLegislate)	Annual	1 Each	\$17,579.52
Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,465.98
Meeting Efficiency Suite	Annual	1 Each	\$15,382.08
SUBTOTAL:			\$69,488.14

Solution	Description
Upgrade to SDI 720p Streaming	Upgrade to SDI 720p Streaming (requires Digital encoder and HD feed)
eComment	eComment reduces staff time by providing the ability to effortlessly collect and manage citizen input on agenda items. Citizens are allowed to either submit comments in regards to items or sign up to speak before a scheduled meeting.
Government Transparency Suite	Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, and indexing of events.
Open Platform Suite	Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable webpage.
Granicus Encoding Appliance Software (GT)	Granicus Encoding Appliance Software (GT) This includes the LiveManager Software solution where webcasts are started/stopped, agendas amended and indexed, votes and attendance recorded, and minutes created.
Upgrade to SDI 720p Streaming	Upgrade to SDI 720p Streaming (requires Digital encoder and HD feed)

Exhibit A-4 Statement of Work maximum aggregate amount: \$92,038.04

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EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation

- A. For CONTRACTOR Services to be rendered under this Agreement during the Term, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, to the extent approved in advance by COUNTY in each instance, not to exceed **\$350,000.00 (“Maximum Contract Amount”)**.
- B. Payment for Services shall be made upon the Effective date of this Agreement.
- C. Annually, CONTRACTOR shall submit to the COUNTY contact listed on the applicable Statement of Work an invoice for the Services performed over the period specified. Each invoice must clearly identify the Services performed and must reference the assigned Master Service Agreement Contract Number. The COUNTY authorized representative set forth in Section 1, above, shall evaluate the quality of the Services performed and, if found to be satisfactory, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory Services within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY’s failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY’s right to require CONTRACTOR to correct such work or billings, or to seek any other legal remedy.

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EXHIBIT C

**Indemnification and Insurance Requirements
(For Information Technology Contracts)**

INDEMNIFICATION

CONTRACTOR will defend COUNTY from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party unaffiliated with either Party to this Agreement ("Claims") and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any Claims that CONTRACTOR'S products and services infringe a valid U.S. copyright or U.S. patent issued as of the date of this Agreement. In the event of such a Claim, if CONTRACTOR determines that this Agreement is likely affected, or if the solution is determined in a final, nonappealable judgment by a court of competent jurisdiction, to infringe a valid U.S. copyright or U.S. patent, CONTRACTOR will, in its discretion: (i) replace the affected products and services; (ii) modify the affected products and services to render it non-infringing; or (iii) terminate this Agreement with respect to the affected solution and refund to COUNTY any prepaid fees for the then-remaining or unexpired portion of the Agreement term. Notwithstanding the foregoing, CONTRACTOR will have no obligation to indemnify, defend, or hold COUNTY harmless from any Claim to the extent it is based upon: (i) a modification to any solution by COUNTY (or by anyone under COUNTY'S direction or control or using logins or passwords assigned to COUNTY); (ii) a modification made by CONTRACTOR pursuant to COUNTY'S required instructions or specifications or in reliance on materials or information provided by COUNTY; or (iii) COUNTY'S use (or use by anyone under COUNTY'S direction or control or using logins or passwords assigned to COUNTY) of any CONTRACTOR products and services other than in accordance with this Agreement. This Section sets forth COUNTY'S sole and exclusive remedy, and CONTRACTOR'S entire liability, for any Claim that the products and services or any other materials provided by CONTRACTOR violate or infringe upon the rights of any third party.

With regard to any Claim subject to indemnification pursuant to this Section: (i) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (ii) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (iii) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim without the indemnifying Party's prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party

Limitation of Liability.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THREE TIMES THE FEES PAID BY COUNTY FOR THE CONTRACTOR'S PRODUCTS AND SERVICES DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES, WITH THE SOLE EXCEPTION OF CONTRACTOR'S INDEMNIFICATION OBLIGATIONS UNDER THIS EXHIBIT C. CONTRACTOR SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED. This limitation of liability does not apply to any damages caused by CONTRACTOR'S gross negligence in the performance of this Agreement.

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NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **(Not required if CONTRACTOR provides written verification that it has no employees)**
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Cyber Liability Insurance:** Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the CONTRACTOR in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in

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connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.

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- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

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EXHIBIT D

FEDERAL CLAUSES

Additional Federal Clauses Applicable for Federal Funding under this Agreement: (2 CFR § 200.326; 2 CFR Part 200, Appendix II, Required Contract Clauses)

1. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of

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September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

3. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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5. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTOR shall file the required certification attached as Exhibit E, Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. PROCUREMENT OF RECOVERED MATERIALS

- A. A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

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8. CHANGES

- A. Notice. The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the CONTRACTOR regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state
- i. The date, nature, and circumstances of the conduct regarded as a change;
 - ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;
 - iii. The identification of any documents and the substance of any oral communication involved in such conduct;
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:
 - What line items have been or may be affected by the alleged change;
 - What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.
- B. Continued Performance. Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.
- C. COUNTY Response. COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either--
- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
 - ii. Countermand any communication regarded as a change;
 - iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance; or
 - iv. In the event the Contractor's notice information is inadequate to make a decision, advise

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Granicus, LLC

CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.

D. Equitable Adjustments.

- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --
 - In the contract price or delivery schedule or both; and
 - In such other provisions of the Agreement as may be affected.
- ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

10. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

11. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

12. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

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14. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C.3321.)

15. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
 - i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OREQUIPMENT

- A. CONTRACTOR is prohibited from obligating or expending Funds to procure or obtain, and shall not enter into any contract (or extend or renew any contract) to procure or obtain, any equipment, services, or system that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- B. As described in Public Law 115-232, section 889, “covered telecommunications equipment” means:
 - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an

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entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- C. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. See Public Law 115-232, section 889 for additional information. See also 2 CFR section 200.471.

17. STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

18. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

CONTRACTOR shall comply with the requirements of 45 CFR Part 75 which are hereby incorporated by reference in this Agreement. (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

19. DRUG FREE WORKPLACE

CONTRACTOR must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707). (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

20. SOFTWARE PURCHASES

Federal Requirement (45 CFR 95.617)

- A. County owns software, modifications, and associated documentation designed, developed or installed with Federal Financial Participation
- B. County grants an irrevocable license to federal government to use such software
- C. Does not apply to Commercial Off-the-Shelf (COTS) Software

21. OWNERSHIP CLAUSE

The County shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions of this paragraph.

22. FORCE MAJEURE

CONTRACTOR shall be excused from liability if and to the extent some unforeseen event beyond the

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control of, and in no way attributable to any act or omission of or on behalf of, CONTRACTOR (for example, war, natural disasters, or other "Acts of God") prevents it from performing its obligations under the Agreement.

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EXHIBIT E

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE
AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:
Alex Bern
0F7BAA9D9DAD473...

Alex Bern, Contracts Manager

8/5/2024 | 10:51 AM CDT

Date

Section 2

Master Service Agreement: MarBorg Industries

Master Services Agreement for Services of Independent Contractor by and between the County of Santa Barbara and MarBorg Industries

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY") and MarBorg Industries, a California corporation ("CONTRACTOR" and together with COUNTY, collectively, the "Parties" and each a "Party"), whose principal place of business is located at 728 E Yanonali St. Santa Barbara, CA, 93103.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and is willing to perform such services, and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Sarah Witmer, whose phone number is 805-568-2691, and whose email address is switmer@countyofsb.org is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY (provided, however, that such COUNTY representative shall not have the authority to approve or execute additional Statements of Work or any other amendment to or of this Agreement). Kathleen Koeper, whose phone number is 805-963-1852, and whose email address is KKoeper@marborg.com, is the authorized representative of CONTRACTOR who is duly authorized to administer this Agreement for and on behalf of CONTRACTOR. Changes to a Party's designated representative shall be made only after advance written notice to the other Party in accordance with Section 2, below.

2. NOTICES

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each, a "Notice") shall be in writing and addressed to the receiving Party at the address for such Party set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section 2), by personal delivery, facsimile, by first class mail via the United States Postal Service ("USPS"), registered or certified mail, or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: Sarah Witmer
General Services, Procurement Services
260 N San Antonio Rd
Santa Barbara, CA 93110

To CONTRACTOR: Kathleen Koeper
MarBorg Industries
728 E Yanonali St.
Santa Barbara, CA, 93103

If sent by first class mail, Notices shall be deemed to be received five (5) days following their deposit in the USPS mail. This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR shall provide to COUNTY the services (the "Services") set forth in statements of work to be issued by COUNTY and accepted by CONTRACTOR (each, a "Statement of Work"). The initial Statements of Work are attached

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hereto as Exhibits A-1, A-2, A-3, and A-4 and incorporated herein by reference. Additional Statements of Work substantially in the same form as the Statements of Work attached hereto shall be deemed accepted and incorporated into this Agreement during the Term (defined below) only if signed by each Party's duly authorized designated representative. For purposes of this Agreement, the COUNTY Purchasing Agent is the duly authorized designated representative of the COUNTY who is duly authorized to accept and sign such additional Statements of Work on behalf of COUNTY.

4. TERM

The term of this Agreement ("Term") shall commence upon the first date that this Agreement is duly executed by all of the parties hereto ("Effective Date") and shall terminate on June 30, 2025, unless earlier terminated in accordance with the provisions of this Agreement.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance of the Services under this Agreement in accordance with the terms of EXHIBIT B, attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY, delivered to COUNTY at the address for Notices to COUNTY set forth in Section 2, above, following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from delivery of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees) shall perform all of the Services under this Agreement as an independent contractor as to COUNTY, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations hereunder in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the Term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement. CONTRACTOR has no authority to commit, act for or on behalf of COUNTY, or to bind COUNTY to any obligation or liability.

7. STANDARD OF PERFORMANCE

CONTRACTOR certifies that it has the skills, expertise, and all licenses and permits necessary to perform the Services. Accordingly, CONTRACTOR shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the highest standards of quality observed by professionals practicing in CONTRACTOR's profession. CONTRACTOR shall correct any errors or omissions in the performance of the Services, at COUNTY'S request without additional compensation. CONTRACTOR has and shall, at CONTRACTOR's sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR's obligations under this Agreement. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances.

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8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement, and shall make any and all payroll deductions required by law. CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon

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intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, information, and data provided to or accessed by or on behalf of CONTRACTOR in connection with the Services, including, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of COUNTY in connection with this Agreement ("COUNTY Property") and any derivative works of the COUNTY Property shall remain COUNTY's property, and CONTRACTOR shall return or delete COUNTY Property whenever requested by COUNTY, and whenever required in accordance with Section 19 of this Agreement. CONTRACTOR may use COUNTY Property solely for the purpose of, and only to the extent necessary for, CONTRACTOR's provision of the Services hereunder. CONTRACTOR shall not disclose, disseminate, publish, or transfer to any third party, any COUNTY Property without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to and shall comply with the indemnification and insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of

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Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, subcontract, delegate, or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer") this Agreement, or any of CONTRACTOR's rights or obligations under this Agreement, without the prior written consent of COUNTY. Any attempted or purported Transfer in violation of this Section 18 shall be null and void and without legal effect and shall constitute grounds for termination. No Transfer shall relieve CONTRACTOR of any of its obligations hereunder.

19. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill its obligations hereunder.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, State or COUNTY governments, or sufficient funds are not otherwise available for payments hereunder in the fiscal year(s) covered by the Term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence, and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of the provisions hereof, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part upon written notice ("Termination Notice"). Upon receipt of such Termination Notice, CONTRACTOR shall immediately discontinue all Services (unless otherwise directed in such Termination Notice) and notify COUNTY in writing of the status of CONTRACTOR's performance of Services hereunder. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option, terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written Notice to COUNTY of such late payment.

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- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory Services performed as of the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the Maximum Contract Amount, or for profit on unperformed portions of Services. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the Services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the Services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT

This Agreement, including all Exhibits attached hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof, and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, duly executed by each of the Parties and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

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26. SUCCESSORS AND ASSIGNS

This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns in accordance with Section 18, above.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all applicable County, State and Federal ordinances and statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. REQUIRED FEDERAL PROVISIONS

The Parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in Exhibit D (Required Federal Provisions), attached hereto and incorporated herein by reference.

33. ORDER OF PRECEDENCE

In the event of conflict between the provisions contained in Sections 1 through 33 of this Agreement ("Numbered Sections") and the provisions contained in the Exhibits, the provisions contained in the Numbered Sections shall control and prevail over those in the Exhibits, other than Exhibits C and D, which Exhibits C and D shall control and prevail. If any Statement of Work, or quotes provided by CONTRACTOR incorporated into a Statement of Work, include any standard terms from CONTRACTOR, or any hyperlinks to standard terms or other provisions from CONTRACTOR ("CONTRACTOR's Terms"), CONTRACTOR agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or

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conflicting language between the COUNTY’s terms set forth in the Numbered Sections and Exhibits B, C, D, and E hereto, on the one hand, and CONTRACTOR’s Terms, on the other, the County’s terms shall take precedence and control, followed by (i) task orders issued by COUNTY pursuant to a Statement of Work, and then (ii) CONTRACTOR’s Terms, if any.

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

APPROVED AS TO FORM:

Rachel Van Mullem

County Counsel

Signed by:
By: Tyler Sprague
0AC56B8DE43F463...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA, CPFO

Auditor-Controller

DocuSigned by:
By: [Signature]
6BAAEA15901943F...
Deputy

APPROVED AS TO FORM:

Gregory Milligan

Risk Management

DocuSigned by:
By: Gregory Milligan
05F555E00260466...
Risk Manager

BOARD AUTHORIZATION EXECUTION:

Date: 08/20/2024

Minute Order Number:

APPROVED AS TO FORM:

Phung Loman

General Services – Procurement Services

By: _____
Chief Procurement Officer

CONTRACTOR:

MarBorg Industries

DocuSigned by:
By: Brian Borgatello
BD83FC9DE8F94C0...
Authorized Representative

Name: Brian Borgatello

Title: Home owner

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EXHIBIT A-1

GENERAL STATEMENT OF WORK
MarBorg Industries

The following additional equipment and services shall be available during the Term at the respective rates set forth in this Exhibit A-1 for additional Statement of Work and Change Orders entered pursuant to Section 3 of the agreement.

Roll – Off Containers		
	Delivery Santa Barbara Area	\$100.00
	Delivery Santa Ynez Valley/Buellton	\$130.00
	Hauling Santa Barbara Area	\$210.00 per load
	Hauling Santa Ynez Valley/Buellton	\$255.00 per load
	Hauling Lompoc/Los Alamos/Vandenberg Village	\$225.00 per load
	Hauling Santa Maria Area	\$220.00 per load
	Hauling Guadalupe	\$225.00 per load
	Disposal Fees	\$189.00 per ton
	Rental	\$4.50 per day
Storage Containers		
12’x8’x7’	Delivery	\$65.00
	Rental	\$90.00 per month
26’x8’x8’	Delivery	\$65.00
	Rental	\$110.00 per month
Construction Offices		
12’x8’x8.5’	Delivery	\$65.00
	Rental	\$95.00 per month
20’x8’x8.5’	Delivery	\$65.00
	Rental	\$135.00 per month
20’x8’x8.5’ VIP w/HVAC	Delivery	\$65.00
	Rental	\$300.00 per month
Beached Boat Removal		
	Heavy Haul Low Bed	\$175.00 per hour
	Excavator & Operator	\$250.00 per hour
	Roll-Off Truck & Driver	\$175.00 per hour
	Labor	\$65.00 per hour
	Disposal Fee	\$176.00 per hour
	Risk Manager	\$100.00 per hour
Street Sweeper		
		\$125.00 per hour
Special Hauls		
	Stake Truck & Operator	\$350.0 per hour
	Disposal Fee	\$189.00 per ton

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E-Waste Collection		
	Gaylord Box	\$130.00 per box
	Disposal Fee	\$600.00 per ton
Cart Rental w/ Locks		
		\$20.00 per cart/ per month
Textiles Recovery Program		
	25 YD Roll Off Exchange	\$182.00 per load
	Rental Fee	\$120.00 per month
Equipment Repair		
	Equipment Repair Welding	\$130.00 per hour+ cost of materials
	Equipment Repair Sandblasting	\$130.00 per hour+ cost of materials
	Equipment Repair Painting	\$130.00 per hour+ cost of materials
Resource Center		
	Transfer of organic material from MRF to ADF	\$160.00 per hour
	Transfer of residual from the MRF to Landfill face	\$160.00 per hour
	Transfer of residual from CMU to landfill face	\$150.00 per hour
Temporary Fence	100' Linear feet or less	\$425.00 6 month
	100' Linear feet or less	\$525.00 12 months
<u>Chain Link</u>	<u>Up to 6 month rental</u>	<u>Up to 12 month rental</u>
Chain Link	\$4.60	\$5.90 per linear foot
4'x6' Walk Gate	\$95.00	\$100.00
10' Single	\$100.00	\$120.00
10' Double	\$150.00	\$170.00
<u>Panels</u>		
10'x6' Fence Panel	\$4.20	\$5.60 per linear foot
4'x6' Walk Gate	\$95.00	\$100.00
10' Single	\$100.00	\$120.00
10' Double	\$150.00	\$170.00
Miscellaneous Material		
	Gravel Bags	\$6.00 each
	Gate Wheels	\$25.00 each
	Distance Charge	\$195.00 flat rate
	Labor/Standby Time	\$175.00 per hour
Crowd Control Barricades		
	8'x4' panel	\$395.00 100 linear feet or less
	Additional panels	\$1.50 per linear feet
Standard Restroom		
	Delivery Fee	\$38.06
	Rent	\$21.75
	Weekly Service	\$104.40
	Pick-Up Fee	\$28.06
	On-Call Emergency	\$60.00

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ADA Restroom		
	Delivery Fee	\$65.25
	Rent	\$59.81
	Weekly Service	\$158.40
	Pick-Up Fee	\$65.25
	On-Call Emergency	\$60.00
Over Spill Tray		
	Delivery Fee	\$38.06
	Rent	\$13.59
	Pick-Up Fee	\$38.06
37' Shower Trailer		
	Delivery Fee	\$407.81
	Rent	\$3,929.38
	Weekly Service	\$1,680.00
	Pick-Up Fee	\$407.81
2-Station Hand Sink		
	Delivery Fee	\$38.06
	Rent	\$21.75
	Weekly Service	\$117.60
	Pick-Up Fee	\$38.06
3-Compartment Hot/Cold Sink		
	Delivery Fee	\$163.13
	Rent	\$706.88
	Weekly Service	\$330.00
	Pick-Up Fee	\$163.13
300 Gallon Holding Tank		
	Delivery Fee	\$38.06
	Rent	\$38.06
	Weekly Service	\$249.60
	Pick-Up Fee	\$38.06
Light Tower		
	Delivery Fee	\$108.75
	Rent	\$1,676.25
	Pick-Up Fee	\$108.75
Grease Trap		
	Emergency Service Non-Scheduled	\$150.00 20 gal- 40 gal
	Emergency Service After Hours	\$350.00 20 gal- 40 gal
Grease Interceptor		
	Emergency Service Non-Scheduled	\$580.00 1000 gal- 2000 gal
	Emergency Service After Hours	\$1,300.00 1000 gal- 2000 gal
Septic Tank		
	Emergency Service Non-Scheduled	\$0.58 per gal
	Emergency Service After Hours	\$0.58 per gal+ 495.00 after hours

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30 Yard Compactor		
	Rent	\$875.00 per month
	Cleaning	\$400.00 per occurrences

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EXHIBIT A-2

STATEMENT OF WORK
PUBLIC WORKS DEPARTMENT RRWM

County PW personnel authorized to enact services:
 Ed Dimock - Supervisor Tajiguas Landfill, Email: EDimock@countyofsb.org
 Joey Costa – Refuse Checker Supervisor, Email: JCosta@countyofsb.org
 Travis Spier – Operations Manager, Email: TSpier@countyofsb.org
 Marty Wilder – Programmer Lead, Email: MWilder@countyofsb.org
 Leslie Robinson – Collection & Materials Manager, Email: LRobins@countyofsb.org
 Vacant - Refuse Leader, Email: TBD

MarBorg Industries shall provide services to the COUNTY’s Public Works Department including, but not limited to, those listed below in this Exhibit A-2 at the respective rates set forth herein, in a maximum aggregate amount not to exceed \$600,000.00.

Roll – Off Containers		
	Delivery	\$100.00
	Hauling	\$200.00 per ton
	Disposal Fees	\$176.00 per ton
	Rental	\$4.50 per day
Standard Restroom		
	Delivery Fee	\$38.06
	Rent	\$21.75
	Weekly Service	\$104.40
	Pick-Up Fee	\$28.06
	On-Call Emergency	\$60.00
ADA Restroom		
	Delivery Fee	\$65.25
	Rent	\$59.81
	Weekly Service	\$158.40
	Pick-Up Fee	\$65.25
	On-Call Emergency	\$60.00
Textiles Recovery Program		
	25 YD Roll Off Exchange	\$182.00 per load
	Rental Fee	\$120.00 per month
Special Hauls		
	Stake Truck & Operator	\$350.0 per hour
	Disposal Fee	\$176.00 per ton
Resource Center		
	Transfer of organic material from MRF to ADF	\$160.00 per hour
	Transfer of residual from the MRF to Landfill face	\$160.00 per hour
	Transfer of residual from CMU to landfill face	\$150.00 per hour

Exhibit A-2 Statement of Work maximum aggregate amount: \$600,000.00.

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EXHIBIT A-3

STATEMENT OF WORK
COMMUNITY SERVICES DEPARTMENT

County CSD personnel authorized to enact services:

- Brian Soares – Cachuma Park Operations Manager, Email: BSoares@countyofsb.org
- Lloyd (Marvin) Henning – South County Park Operations Manager, Email: MHenning@countyofsb.org
- Ryan Heath – North County and Jalama Park Operations Manager, Email: RHeath@countyofsb.org
- Steve Benchek – South County Maintenance Leader, Email: SBenchek@countyofsb.org
- Chris Thompson – Cachuma Maintenance Leader, Email: CThompson@countyofsb.org
- Corey Onaga – North County Maintenance Leader, Email: CONaga@countyofsb.org
- Brian Switzer – South County Park Ranger III, Email: BSwitzer@countyofsb.org
- Dominic May – North County Park Ranger III, Email: DMay@countyofsb.org

MarBorg Industries shall provide Services to the COUNTY Departments listed above in this Exhibit A-3 including, but not limited to, those listed below in this Exhibit A-3 at the respective rates set forth herein, in a maximum aggregate amount not to exceed \$400,000.00.

Roll – Off Containers		
	Delivery	\$100.00
	Hauling	\$200.00 per ton
	Disposal Fees	\$176.00 per ton
	Rental	\$4.50 per day
Standard Restroom		
	Delivery Fee	\$38.06
	Rent	\$21.75
	Weekly Service	\$104.40
	Pick-Up Fee	\$28.06
	On-Call Emergency	\$60.00
ADA Restroom		
	Delivery Fee	\$65.25
	Rent	\$59.81
	Weekly Service	\$158.40
	Pick-Up Fee	\$65.25
	On-Call Emergency	\$60.00
Over Spill Tray		
	Delivery Fee	\$38.06
	Rent	\$13.59
	Pick-Up Fee	\$38.06
37' Shower Trailer		
	Delivery Fee	\$407.81
	Rent	\$3,929.38
	Weekly Service	\$1,680.00
	Pick-Up Fee	\$407.81
2-Station Hand Sink		
	Delivery Fee	\$38.06

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	Rent	\$21.75
	Weekly Service	\$117.60
	Pick-Up Fee	\$38.06
3-Compartment Hot/Cold Sink		
	Delivery Fee	\$163.13
	Rent	\$706.88
	Weekly Service	\$330.00
	Pick-Up Fee	\$163.13
300 Gallon Holding Tank		
	Delivery Fee	\$38.06
	Rent	\$38.06
	Weekly Service	\$249.60
	Pick-Up Fee	\$38.06

Exhibit A-3 Statement of Work maximum aggregate amount: \$400,000.00.

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EXHIBIT A-4

STATEMENT OF WORK
SHERIFF'S DEPARTMENT

County Sheriff's Department personnel authorized to enact services:
Kenneth Callahan – Commander, Email: kdc3246@sbsheriff.org
Ryan Sullivan – Commander, Email: rms3882@sbsheriff.org

MarBorg Industries shall provide services to the COUNTY's Sheriff Department including, but not limited to, those listed below in this Exhibit A-4 at the respective rates set forth herein, in a maximum aggregate amount not to exceed \$200,000.00.

30 Yard Compactor		
	Rent	\$875.00 per month
	Cleaning	\$400.00 per occurrences
ADA Restroom		
	Delivery Fee	\$65.25
	Rent	\$59.81
	Weekly Service	\$158.40
	Pick-Up Fee	\$65.25
	On-Call Emergency	\$60.00
2-Station Hand Sink		
	Delivery Fee	\$38.06
	Rent	\$21.75
	Weekly Service	\$117.60
	Pick-Up Fee	\$38.06

Exhibit A-4 Statement of Work maximum aggregate amount: \$200,000.00

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EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation

- A. For CONTRACTOR Services to be rendered under this Agreement during the Term, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, to the extent approved in advance by COUNTY in each instance, not to exceed **\$1,750,000.00**.
- B. Payment for Services and reimbursement of costs, to the extent approved in advance by COUNTY in each instance, shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in Exhibits A-1 through A-4 , above, as determined by COUNTY.
- C. Monthly, CONTRACTOR shall submit to the COUNTY contact listed on the applicable Statement of Work an invoice for the Services performed over the period specified. Each invoice must clearly identify the Services performed and must reference the assigned Master Service Agreement Contract Number. The COUNTY authorized representative set forth in Section 1, above, shall evaluate the quality of the Services performed and, if found to be satisfactory, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory Services within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings, or to seek any other legal remedy.

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EXHIBIT C
(For Service Contracts Not Requiring Professional Liability Insurance)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. *(Not required if CONTRACTOR provides written verification that it has no employees)*

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance (at least as broad as ISO Form CG 20 10 11 85 or if not

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available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR’S insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR’S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR’S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

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EXHIBIT D

FEDERAL CLAUSES

Additional Federal Clauses Applicable for Federal Funding under this Agreement: (2 CFR § 200.326; 2 CFR Part 200, Appendix II, Required Contract Clauses)

1. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,

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regulations, and orders.

- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

3. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal

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Government may pursue available remedies, including but not limited to suspension and/or debarment.

- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (ASAMENDED)

CONTRACTOR shall file the required certification attached as Exhibit E, Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. PROCUREMENT OF RECOVERED MATERIALS

- A. A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

8. CHANGES

- A. Notice. The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the CONTRACTOR regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state
 - i. The date, nature, and circumstances of the conduct regarded as a change;
 - ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;

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- iii. The identification of any documents and the substance of any oral communication involved in such conduct;
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:
 - What line items have been or may be affected by the alleged change;
 - What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.
- B. Continued Performance. Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.
- C. COUNTY Response. COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either--
- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
 - ii. Countermand any communication regarded as a change;
 - iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance; or
 - iv. In the event the Contractor's notice information is inadequate to make a decision, advise CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.
- D. Equitable Adjustments.
- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --
 - In the contract price or delivery schedule or both; and
 - In such other provisions of the Agreement as may be affected.
 - ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

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9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

10. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

11. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

12. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

14. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C.3321.)

15. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the

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United States.

- ii. "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- A. CONTRACTOR is prohibited from obligating or expending Funds to procure or obtain, and shall not enter into any contract (or extend or renew any contract) to procure or obtain, any equipment, services, or system that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- B. As described in Public Law 115-232, section 889, "covered telecommunications equipment" means:
 - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- C. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. See Public Law 115-232, section 889 for additional information. See also 2 CFR section 200.471.

17. STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

18. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

CONTRACTOR shall comply with the requirements of 45 CFR Part 75 which are hereby incorporated by reference in this Agreement. (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

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19. DRUG FREE WORKPLACE

CONTRACTOR must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707). (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

20. SOFTWARE PURCHASES

Federal Requirement (45 CFR 95.617)

- A. County owns software, modifications, and associated documentation designed, developed or installed with Federal Financial Participation
- B. County grants an irrevocable license to federal government to use such software
- C. Does not apply to Commercial Off-the-Shelf (COTS) Software

21. OWNERSHIP CLAUSE

The County shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions of this paragraph.

22. FORCE MAJEURE

CONTRACTOR shall be excused from liability if and to the extent some unforeseen event beyond the control of, and in no way attributable to any act or omission of or on behalf of, CONTRACTOR (for example, war, natural disasters, or other "Acts of God") prevents it from performing its obligations under the Agreement.

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EXHIBIT E

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

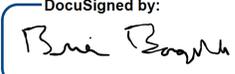
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:

BD83FC9DE8E94C0

Brian Borgatello, President

8/6/2024 | 3:48 PM PDT

Date

Section 3

Master Service Agreement: Tetra Tech, Inc.

Master Services Agreement for Services of Independent Contractor by and between the County of Santa Barbara and Tetra Tech, Inc.

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY") and Tetra Tech, Inc., a Delaware corporation with an address at 3475 E Foothill Blvd, Pasadena, CA 91107 ("CONTRACTOR" or "Tetra Tech" and, together with COUNTY, collectively, the "Parties" and each a "Party").

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and is willing to perform such services, and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Sarah Witmer at phone number 805-568-2691 and email: switmer@countyofsb.org is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Tim Tringali at phone number 805-478-8491 and email: tim.tringali@tetrattech.com is the authorized representative for CONTRACTOR. Changes to a Party's designated representative shall be made only after advance written notice to the other Party.

2. NOTICES

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each "Notice") shall be in writing and addressed to the receiving Party at its address set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section), by personal delivery, facsimile, by first class mail via the United States Postal Service ("USPS"), registered or certified mail, or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: Sarah Witmer
General Services, Procurement Services
260 N San Antonio Rd
Santa Barbara, CA 93110

To CONTRACTOR: Tim Tringali
Tetra Tech, Inc.
3475 E Foothill Blvd
Pasadena, CA 91107

If sent by first class mail, Notices shall be deemed to be received five (5) days following their deposit in the USPS mail. This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR shall provide to COUNTY the services (the "Services") set out in statements of work to be issued by COUNTY and accepted by CONTRACTOR (each, a "Statement of Work"). The initial accepted Statements of Work are attached hereto as Exhibit A-1 through A-3 and incorporated herein by reference. Additional Statements of Work substantially in the same form as the Statements of Work attached hereto shall be deemed accepted and incorporated into this Agreement only if signed by each Party's duly authorized designated representative.

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

4. TERM

The term of this Agreement (“Term”) shall commence upon the first date that this Agreement is duly executed by all of the parties hereto (“Effective Date”) and shall terminate on June 30, 2025, unless earlier terminated in accordance with the provisions of this Agreement.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR’s services, CONTRACTOR shall be paid for performance of the Services under this Agreement in accordance with the terms of EXHIBIT B, attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY, delivered to COUNTY at the address for Notices to COUNTY set forth in Section 2, above, following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from delivery of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees) shall perform all of the Services under this Agreement as an independent contractor as to COUNTY, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations hereunder in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR’s employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the Term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement. CONTRACTOR has no authority to commit, act for or on behalf of COUNTY, or to bind COUNTY to any obligation or liability.

7. STANDARD OF PERFORMANCE

CONTRACTOR certifies that it has the skills, expertise, and all licenses and permits necessary to perform the Services. Accordingly, CONTRACTOR shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the standards of quality observed by professionals practicing in CONTRACTOR's profession. CONTRACTOR shall correct any errors or omissions in the performance of the Services, at COUNTY'S request without additional compensation. CONTRACTOR has and shall, at CONTRACTOR’s sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR’s obligations under this Agreement. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

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9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement, and shall make any and all payroll deductions required by law. CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR represents that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR shall indemnify and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including reasonable attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, information, and data provided to or accessed by or on behalf of CONTRACTOR in connection with the Services, including, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of COUNTY in connection with this Agreement ("COUNTY Property") and any derivative works of the COUNTY Property shall remain COUNTY's property, and CONTRACTOR shall return or delete COUNTY Property whenever requested by COUNTY, and whenever required in accordance with Section 19 of this Agreement. CONTRACTOR may use COUNTY Property solely for the purpose of, and only to the extent necessary for, CONTRACTOR's provision of the Services hereunder. CONTRACTOR shall not disclose, disseminate, publish, or transfer to any third party, any COUNTY Property without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to and shall comply with the indemnification and insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

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17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, subcontract, delegate, or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer") this Agreement, or any of CONTRACTOR's rights or obligations under this Agreement, without the prior written consent of COUNTY. Any attempted or purported Transfer in violation of this Section 18 shall be null and void and without legal effect and shall constitute grounds for termination. No Transfer shall relieve CONTRACTOR of any of its obligations hereunder.

19. TERMINATION

A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill its obligations hereunder.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, State or COUNTY governments, or sufficient funds are not otherwise available for payments hereunder in the fiscal year(s) covered by the Term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence, and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.
3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of the provisions hereof, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part upon written notice ("Termination Notice") after providing CONTRACTOR a ten (10) day period to cure any defect. Upon receipt of such Termination Notice, CONTRACTOR shall immediately discontinue all Services (unless otherwise directed in such Termination Notice) and notify COUNTY in writing of the status of CONTRACTOR's performance of Services hereunder. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise.

B. By CONTRACTOR.

1. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option, terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written Notice to COUNTY of such late payment.
2. For Convenience – CONTRACTOR may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall wind down and

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by and between the County of Santa Barbara and Tetra Tech, Inc.

cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory Services performed as of the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the Maximum Contract Amount, or for profit on unperformed portions of Services. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the Services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the Services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. NO WAIVER OF DEFAULT

No delay or omission of either Party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to either Party shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of either Party.

24. ENTIRE AGREEMENT AND AMENDMENT

This Agreement, including all Exhibits attached hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof, and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, duly executed by each of the Parties and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

25. SUCCESSORS AND ASSIGNS

This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns in accordance with Section 18, above.

26. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all applicable County, State and Federal ordinances and statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

27. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

28. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

29. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

30. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

31. REQUIRED FEDERAL PROVISIONS

The parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in Exhibit D (Required Federal Provisions), attached hereto and incorporated herein by reference.

32. ORDER OF PRECEDENCE

In the event of conflict between the provisions contained in Sections 1 through 31 of this Agreement ("Numbered Sections") and the provisions contained in the Exhibits, the provisions contained in the Numbered Sections shall control and prevail over those in the Exhibits, other than Exhibits C, which Exhibits C and D shall control and prevail. If any Statement of Work, or quotes provided by CONTRACTOR incorporated into a Statement of Work, include any standard terms from CONTRACTOR, or any hyperlinks to standard terms or other provisions from CONTRACTOR ("CONTRACTOR's Terms"), CONTRACTOR agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or

Master Services Agreement for Services of Independent Contractor
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conflicting language between the COUNTY's terms set forth in the Numbered Sections and Exhibits B, C, D, and E hereto, on the one hand, and CONTRACTOR's Terms, on the other, the County's terms shall take precedence and control, followed by (i) task orders issued by COUNTY pursuant to a Statement of Work, and then (ii) CONTRACTOR's Terms, if any.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the first date duly executed by all of the Parties ("Effective Date").

APPROVED AS TO FORM:

Rachel Van Mullem

County Counsel

Signed by:
By: Tyler Sprague
0AC56B8DE45F463...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA, CPFO

Auditor-Controller

DocuSigned by:
By: [Signature]
6BAAEA16904943F...
Deputy

APPROVED AS TO FORM:

Gregory Milligan

Risk Management

DocuSigned by:
By: Gregory Milligan
85F555F00269466...
Risk Manager

BOARD AUTHORIZATION EXECUTION:

Date: 08/20/2024

Minute Order Number:

APPROVED AS TO FORM:

Phung Loman

General Services – Procurement Services

By: _____
Chief Procurement Officer

CONTRACTOR:

Tetra Tech, Inc.

Signed by:
By: [Signature]
0C6CD7A3CA4E4B5...
Authorized Representative

Name: Tim Tringali

Title: Vice President

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

EXHIBIT A-1

STATEMENT OF WORK

The projects set forth in the Statements of Work attached hereto as Exhibits A-2 through A-3 (“Statements of Work”) include the following tasks:

- Inspections, monitoring, and document preparation in support of oil spill control, stormwater, and surface water regulations.
- Various tasks in support of the landfill, landfill gas system, material recovery facility, and composting operations, such as planning, feasibility studies, assistance with documents, permitting, design, construction support, operations and maintenance.

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County of Santa Barbara MSA
Tetra Tech - Standard Hourly Billing Rates
June 28, 2024

Labor Category	Hourly Billing Rates
Project Management	
Project Manager 1	\$204.00
Project Manager 2	\$220.00
Project Manager 3	\$231.00
Sr Project Manager	\$264.00
QA/QC Manager	\$220.00
Principal-In-Charge/Program Manager	\$253.00
Engineers	
Engineering Technician	\$99.00
Engineer 1	\$121.00
Engineer 2	\$132.00
Engineer 3	\$143.00
Project Engineer 1	\$154.00
Project Engineer 2	\$165.00
Project Engineer 3	\$187.00
Senior Engineer 1	\$220.00
Senior Engineer 2	\$242.00
Senior Engineer 3	\$275.00
Principal Engineer	\$297.00
Structural	
Structural Designer	\$132.00
Structural Design Engineer	\$143.00
Structural Project Engineer	\$175.00
Senior Structural Engineer	\$205.00

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Geotechnical	
Staff Soils Engineer/Geologist 1	\$116.00
Staff Soils Engineer/Geologist 2	\$127.00
Staff Soils Engineer/Geologist 3	\$138.00
Project Soils Engineer/Geologist 1	\$149.00
Project Soils Engineer/Geologist 2	\$160.00
Project Soils Engineer/Geologist 3	\$171.00
Senior Soils Engineer/Geologist 1	\$182.00
Senior Soils Engineer/Geologist 2	\$193.00
Senior Soils Engineer/Geologist 3	\$204.00
Associate Soils Engineer/Geologist	\$215.00
Supervising Soils Engineer/Geologist	\$226.00
Chief Soils Engineer/Geologist	\$237.00
Principal Soils Engineer/Geologist	\$248.00
Principal	\$264.00
Soils/Asphalt/Field Technician (Standard)	\$102.00
Soils/Asphalt/Field Technician (Prevailing)	\$129.00
Archaeological/Cultural Specialists	
Principal Archaeologist	\$226.00
Principal Architectural Historian	\$206.00
Laboratory Director	\$128.00
Senior Archaeologist	\$113.00
Production Manager	\$123.00
Senior Architectural Historian	\$111.00
Field Supervisor	\$103.00
Laboratory Supervisor	\$103.00
Associate Archaeologist	\$103.00
Lead Field Tech/Crew Chief	\$103.00
Laboratory Technician	\$89.00
GIS Technician	\$89.00
Field Technician	\$83.00
Staff Archaeologist	\$79.00
Editor/Documents Production	\$74.00
Scientists/Planners/Biologists	
Scientist Technician I	\$50.00
Scientist Technician II	\$65.00
Scientist/Planner 1	\$88.00
Scientist/Planner 2	\$116.00
Scientist/Planner 3	\$143.00
Scientist/Planner 4	\$165.00
Sr. Scientist/Planner	\$198.00
Principal Scientist/Planner	\$225.00

**Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.**

Designers/Technicians	
GIS Analyst 1	\$110.00
GIS Analyst 2	\$132.00
Sr. GIS Analyst	\$160.00
CAD Designer 1	\$105.00
CAD Designer 2	\$121.00
Sr. CAD Designer	\$149.00
Construction	
Construction Technician	\$110.00
Assistant Construction Manager	\$154.00
Senior Construction Manager	\$198.00
Construction Inspector 1	\$116.00
Construction Inspector 2	\$138.00
Construction Inspector 3	\$160.00
Senior Construction Inspector	\$204.00
Office Surveying	
Survey Technician 1	\$116.00
Survey Technician 2	\$132.00
Survey Crew Chief	\$143.00
Project Surveyor 1	\$160.00
Project Surveyor 2	\$187.00
Sr. Land Surveyor	\$231.00
Field Surveying	
1-Person Survey Crew (Non-Prevailing)	\$182.00
2-Person Survey Crew (Non-Prevailing)	\$264.00
3-Person Survey Crew (Non-Prevailing)	\$347.00
1-Person Survey Crew (Prevailing)	\$215.00
2-Person Survey Crew (Prevailing)	\$341.00
3-Person Survey Crew (Prevailing)	\$446.00
Administration	
Project Assistant 1	\$72.00
Project Assistant 2	\$88.00
Project Administrator 1	\$105.00
Project Administrator 2	\$149.00
Technical Writer	\$121.00
Graphic Artist	\$138.00

Additional Notes:

- 1 Proposed labor rates are valid for the 3 year term of the contract. The term of each year is from the month of award through 12 months.
- 2 Invoices will be submitted on a monthly basis and are payable upon receipt and approval.
- 3 All other direct costs such as travel, materials, supplies, etc. will be billed at actual cost plus 20% markup.
- 4 Subcontractors will be billed at cost plus 10% markup.
- 5 Rates for field equipment are quoted upon request.



Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

EXHIBIT A-2

STATEMENT OF WORK
PW Water Resources Division

Tetra Tech shall provide the following services to the County of Santa Barbara, Public Works Department, Water Resources Division, Project Clean Water (County) to support the Partner Agency 303(d) Monitoring Program.

STATEMENT OF UNDERSTANDING

Tetra Tech shall provide support with coordination of the Clean Water Act Section 303(d) Monitoring Program (303[d] monitoring) per the *Urban Storm Water Monitoring Plan 2015-2018* (303(d) Monitoring Plan), which is performed by volunteers from the County and Cities of Goleta, Carpinteria, Buellton, and Solvang. Four sampling events will be targeted during the Term. Volunteer samplers from the Partner Agencies will collect samples per the 303(d) Monitoring Plan. The samplers will complete field data sheets and chain of custody forms and place filled sample containers in ice-filled coolers for transport to the lab. Our proposed scope of work is provided below.

SCOPE OF WORK

This Exhibit A-2 Scope of Work includes two tasks, summarized below.

Task 1 –303(d) Monitoring Support

Tetra Tech will perform the following support tasks, unless the County elects to perform them (which the County will communicate to Tetra Tech):

- Track weather forecasts through the contract period.
- Maintain bottles, equipment, and field devices at-ready for sampling.
- When a storm is predicted, confer with the County, contact the Partner Cities for staff availability, and alert Weck Laboratory (Weck).
- Arrange shipment/delivery of the coolers, bottles, and forms. Samplers will have calibrated pH meters, sampling devices, gloves, and packaging materials.
- Notify the samplers when deployment to the sampling sites be needed upon the County’s determination that a storm is anticipated to yield sufficient rainfall to collect samples.
- After sampling is completed, coordinate picking up samples and completed forms from the samplers.
- Coordinate sample drop-off with Weck’s courier.
- Prepare a *Storm Tracking Report* for each event, regardless of whether samples were collected, to describe communications, decisions made, and storm event characteristics.

Task 2 – Develop the 303(d) Monitoring Annual Report

Tetra Tech will develop the 2024-2025 303(d) Monitoring Annual report. The report will summarize the *Storm Tracking Reports*, laboratory results, and outcomes. One electronic draft and final of the report will be submitted to the County.

Master Services Agreement for Services of Independent Contractor
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SCHEDULE

Tetra Tech is available to begin the above tasks upon receipt of the Notice to Proceed and copy of this fully executed MSA, through June 30, 2025.

ASSUMPTIONS

Assumptions and limitations to this Exhibit A-2 scope of work are as follows:

- Should regulations applicable to monitoring of the sampling sites change or if additional regulatory requirements applicable to monitoring of the sampling sites are imposed, the project work scope, and costs may need to be modified.
- The County will contract the labs directly and facilitate payment of the sample analysis invoices.
- All analytical reports and field forms will be submitted to the County.
- Costs herein are for coordinating four rain events. Additional events can be supported, but would require additional funding.
- Costs include travel time for sample delivery from the Santa Ynez Valley to Ventura to meet the Weck courier. Wait time to meet the courier is estimated to be one hour or less.
- The annual report format will be based on the historic reports. Major formatting changes, additional background information, and analysis and modeling of results are not included.

COST

Tetra Tech shall perform the scope of work as described above, **on a time-and-materials basis, at the Unit prices set forth in Table 1 below, in an aggregate amount not to exceed \$15,000**, as summarized in Table 1.

**Table 1
Time-and-Materials Price**

Task	Description	Unit Price	Unit	Extended Price
1	303(d) Monitoring Support and Storm Tracking Reports	\$2,875	4 QSEs	\$11,500
3	303(d) Monitoring Annual Report	\$3,500	1 Draft, 1 Final	\$3,500
TOTAL				NTE \$15,000

Notes: NTE not to exceed
QSE qualifying storm event

County of Santa Barbara, Public Works Department, Water Resources Division, Project Clean Water personnel authorized to enact services:

Cathleen Garnand, Project Clean Water Manager
County of Santa Barbara Public Works
123 E. Anapamu St., Santa Barbara, CA, 93101
Phone: 805-568-3561
Email: cgarnan@countyofsb.org

Master Services Agreement for Services of Independent Contractor
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Elizabeth Elliot, Project Clean Water Program Specialist
County of Santa Barbara Public Works
123 E. Anapamu St., Santa Barbara, CA, 93101
Phone: 805-568-3440
Email: eelliott@countyofsb.org

Cindy Gonzalez, Project Clean Water Financial Office Professional
County of Santa Barbara Public Works
130 E. Victoria St., Santa Barbara, CA, 93101
Phone: 805-568-3439
Email: cgonzalez@countyofsb.org

Exhibit A-2 Statement of Work maximum aggregate amount: \$15,000.00

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

EXHIBIT A-3

STATEMENT OF WORK

PW Water Resources Division

Orcutt Creek Total Maximum Daily Load (TMDL) / Urban Stormwater Runoff Sampling and Reporting

Tetra Tech shall provide the following services to the County of Santa Barbara, Public Works Department, Water Resources Division, Project Clean Water (County)

STATEMENT OF UNDERSTANDING

CONTRACTOR shall provide support with conducting total maximum daily load (TMDL) / urban stormwater runoff sampling in Orcutt, CA. Sampling will be conducted during the 2023-2024 storm season per the *TMDL Wasteload Allocation Attainment Plan for the Santa Maria River Watershed (2015)* and *Orcutt Creek TMDL Sampling Protocols* in accordance with the scope of work provided below.

SCOPE OF WORK

This Exhibit A-3 scope of work includes two tasks, summarized below.

Task 1 – Collecting Orcutt Creek and Urban Stormwater Runoff Samples

Tetra Tech will target four storms and will:

- Coordinate with Weck Laboratories (Weck), Aquatic Bioassay Consulting (ABC), and Oilfield Environmental & Compliance (OEC) to obtain prepared sample containers prior to a predicted storm.
- Track weather patterns and alert the County when rain is predicted.
- Communicate with the County to verify the targeted event can be staffed with samplers and whether the County would like to deploy for the event.
- Prepare forms, supplies, field equipment, and calibrated meters.
- Notify the property owner adjacent to sample site #4.
- Coordinate with the County's samplers to staff sampling locations.
- Alert the labs that sampling is scheduled and arrange to meet the courier if needed.
- Collect aliquot samples over the two-hour sampling period at each location (two creek and two urban), if possible.
- Preserve the samples on ice for delivery to the labs and complete field forms.
- Deliver the bacteria samples to OEC and deliver all other analyte samples a location in Santa Ynez where they will be couriered to ABC and Weck in conjunction with another program's samples.
- Conduct post-storm measures (clean equipment, download photos and forms, etc.) and order bottles for the next event, if applicable.
- Prepare *Storm Tracking Report* for each predicted rain event, regardless of whether samples were collected. The reports will describe communications, decisions made, and storm event characteristics with field forms attached and submit to the County.

Task 2 –Orcutt Creek TMDL Monitoring Annual Report

Tetra Tech will develop the 2024-2025 Orcutt Creek TMDL Monitoring Annual Report. The report will summarize the Storm Tracking Reports, laboratory results, and outcomes. One electronic draft and final of the

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

report will be submitted to the County.

SCHEDULE

Tetra Tech shall perform the above tasks upon receipt of the Notice to Proceed and a fully executed copy of this MSA, through June 30, 2025.

ASSUMPTIONS

Assumptions and limitations to this Exhibit A-3 scope of work are as follows:

- Should regulations change or if additional regulatory requirements are imposed, the project work scope, and costs may need to be modified.
- The County will contract the labs directly and facilitate payment of the sample analysis invoices.
- Costs herein are for sampling four TMDL rain events. Additional events can be supported, but would require additional funding.
- The annual report format will be based on the historic reports. Major formatting changes, additional background information, and analysis and modeling of results are not included.

ESTIMATED COST

Tetra Tech proposes to perform this Exhibit A-3 scope of work **on a time-and-materials basis, not-to-exceed cost of \$17,500**, as summarized in Table 1, below, and the time-and-materials rates provided in Table 2, below.

**Table 1
Time-and-Materials Price**

Task	Description	Unit Price	Unit	Extended Price
1	Collecting TMDL and Urban Stormwater Runoff Samples and Developing Storm Tracking Reports	\$3,500	4 QSEs	\$14,000
2	Developing the Orcutt Creek TMDL Monitoring Annual Report	\$3,500	Draft and final report	\$3,500
			TOTAL	NTE \$17,500

Notes: NTE not to exceed
QSE qualifying storm event

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County of Santa Barbara MSA
Tetra Tech - Standard Hourly Billing Rates
June 28, 2024

Labor Category	Hourly Billing Rates
Project Management	
Project Manager 1	\$204.00
Project Manager 2	\$220.00
Project Manager 3	\$231.00
Sr Project Manager	\$264.00
QA/QC Manager	\$220.00
Principal-In-Charge/Program Manager	\$253.00
Engineers	
Engineering Technician	\$99.00
Engineer 1	\$121.00
Engineer 2	\$132.00
Engineer 3	\$143.00
Project Engineer 1	\$154.00
Project Engineer 2	\$165.00
Project Engineer 3	\$187.00
Senior Engineer 1	\$220.00
Senior Engineer 2	\$242.00
Senior Engineer 3	\$275.00
Principal Engineer	\$297.00
Structural	
Structural Designer	\$132.00
Structural Design Engineer	\$143.00
Structural Project Engineer	\$175.00
Senior Structural Engineer	\$205.00

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Geotechnical	
Staff Soils Engineer/Geologist 1	\$116.00
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Staff Soils Engineer/Geologist 3	\$138.00
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Principal	\$264.00
Soils/Asphalt/Field Technician (Standard)	\$102.00
Soils/Asphalt/Field Technician (Prevailing)	\$129.00
Archaeological/Cultural Specialists	
Principal Archaeologist	\$226.00
Principal Architectural Historian	\$206.00
Laboratory Director	\$128.00
Senior Archaeologist	\$113.00
Production Manager	\$123.00
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Field Technician	\$83.00
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Editor/Documents Production	\$74.00
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Scientist Technician I	\$50.00
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Designers/Technicians	
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Sr. CAD Designer	\$149.00
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Construction Technician	\$110.00
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Senior Construction Manager	\$198.00
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Construction Inspector 3	\$160.00
Senior Construction Inspector	\$204.00
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Survey Crew Chief	\$143.00
Project Surveyor 1	\$160.00
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1-Person Survey Crew (Prevailing)	\$215.00
2-Person Survey Crew (Prevailing)	\$341.00
3-Person Survey Crew (Prevailing)	\$446.00
Administration	
Project Assistant 1	\$72.00
Project Assistant 2	\$88.00
Project Administrator 1	\$105.00
Project Administrator 2	\$149.00
Technical Writer	\$121.00
Graphic Artist	\$138.00
Additional Notes:	
1	Proposed labor rates are valid for the 3 year term of the contract. The term of each year is from the month of award through 12 months.
2	Invoices will be submitted on a monthly basis and are payable upon receipt and approval.
3	All other direct costs such as travel, materials, supplies, etc. will be billed at actual cost plus 20% markup.
4	Subcontractors will be billed at cost plus 10% markup.
5	Rates for field equipment are quoted upon request.

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County of Santa Barbara, Public Works Department, Water Resources Division, Project Clean Water
personnel authorized to enact services:

Cathleen Garnand, Project Clean Water Manager
County of Santa Barbara Public Works
123 E. Anapamu St., Santa Barbara, CA, 93101
Phone: 805-568-3561
Email: cgarnan@countyofsb.org

Elizabeth Elliot, Project Clean Water Program Specialist
County of Santa Barbara Public Works
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Phone: 805-568-3440
Email: eelliott@countyofsb.org

Cindy Gonzalez, Project Clean Water Financial Office Professional
County of Santa Barbara Public Works
130 E. Victoria St., Santa Barbara, CA, 93101
Phone: 805-568-3439
Email: cgonzalez@countyofsb.org

Exhibit A-3 Statement of Work maximum aggregate amount: \$17,500.00

Master Services Agreement for Services of Independent Contractor
by and between the County of Santa Barbara and Tetra Tech, Inc.

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation

- A. For CONTRACTOR services to be rendered under this Agreement during the Term, CONTRACTOR shall be paid a total contract amount, including cost reimbursements to the extent approved in advance by COUNTY in each instance, not to exceed **\$350,000.00**
- B. Payment for Services and reimbursement of costs, to the extent approved in advance by COUNTY in each instance, shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in Exhibits A-1 through A-3, above, as determined by COUNTY.
- C. Monthly, CONTRACTOR shall submit to the COUNTY contact listed on the applicable Statement of Work an invoice for the Services performed over the period specified. Each invoice must clearly identify the Services performed and must reference the assigned Master Service Agreement Contract Number. The COUNTY authorized representative set forth in Section 1, above, shall evaluate the quality of the Services performed and, if found to be satisfactory, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory Services within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

Master Services Agreement for Services of Independent Contractor
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EXHIBIT C

**Indemnification and Insurance Requirements
(For Environmental Contractors and/or Consultant Contracts)**

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. *(Not required if CONTRACTOR provides written verification that it has no employees)*
4. **Contractor's Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions:** applicable to the work being performed, with a limit no less than \$2,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

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B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this contract, the CONTRACTOR'S insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:

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- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

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EXHIBIT D

FEDERAL CLAUSES

Additional Federal Clauses Applicable for Federal Funding under this Agreement: (2 CFR § 200.326; 2 CFR Part 200, Appendix II, Required Contract Clauses)

1. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant

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thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

3. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts.

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CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTOR shall file the required certification attached as Exhibit E, Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. PROCUREMENT OF RECOVERED MATERIALS

- A. A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

8. CHANGES

- A. Notice. The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including

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actions, inactions, and written or oral communications) that the CONTRACTOR regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state

- i. The date, nature, and circumstances of the conduct regarded as a change;
 - ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;
 - iii. The identification of any documents and the substance of any oral communication involved in such conduct;
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:
 - What line items have been or may be affected by the alleged change;
 - What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.
- B. Continued Performance. Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.
- C. COUNTY Response. COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either--
- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
 - ii. Countermand any communication regarded as a change;
 - iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance; or
 - iv. In the event the Contractor's notice information is inadequate to make a decision, advise CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.
- D. Equitable Adjustments.
- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or

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the time required for, performance of any part of the work under this Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --

- In the contract price or delivery schedule or both; and
- In such other provisions of the Agreement as may be affected.

- ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

10. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

11. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

12. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

14. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180

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and 31 U.S.C.3321.)

15. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OREQUIPMENT

- A. CONTRACTOR is prohibited from obligating or expending Funds to procure or obtain, and shall not enter into any contract (or extend or renew any contract) to procure or obtain, any equipment, services, or system that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- B. As described in Public Law 115-232, section 889, "covered telecommunications equipment" means:
 - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- C. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that

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communications service to users and customers is sustained. See Public Law 115-232, section 889 for additional information. See also 2 CFR section 200.471.

17. STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

18. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

CONTRACTOR shall comply with the requirements of 45 CFR Part 75 which are hereby incorporated by reference in this Agreement. (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

19. DRUG FREE WORKPLACE

CONTRACTOR must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707). (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

20. SOFTWARE PURCHASES

Federal Requirement (45 CFR 95.617)

- A. County owns software, modifications, and associated documentation designed, developed or installed with Federal Financial Participation
- B. County grants an irrevocable license to federal government to use such software
- C. Does not apply to Commercial Off-the-Shelf (COTS) Software

21. OWNERSHIP CLAUSE

The County shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions of this paragraph.

22. FORCE MAJEURE

CONTRACTOR shall be excused from liability if and to the extent some unforeseen event beyond the control of, and in no way attributable to any act or omission of or on behalf of, CONTRACTOR (for example, war, natural disasters, or other "Acts of God") prevents it from performing its obligations under the Agreement.

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EXHIBIT E

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE
AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signed by:

0C6CD7A3CA4E4B5...

Tim Tringali, Operations Manager

8/6/2024 | 10:36 AM PDT

Date

Section 4

Master Service Agreement: Cellco Partnership dba Verizon Wireless

Master Services Agreement for Services of Independent Contractor by and between the County of Santa Barbara and Cellco Partnership dba Verizon Wireless

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY") and Cellco Partnership dba Verizon Wireless with an address at 15505 Sand Canyon Ave, Bldg C, Irvine, CA 92618 ("CONTRACTOR" and together with COUNTY, collectively, the "Parties" and each a "Party").

WHEREAS, COUNTY has entered into a contract (#C4-CVD-19-001-03) with the California Department of Technology for cellular voice and data services ("CALNET Contract");

WHEREAS, COUNTY has entered into a contract (MA 152) with the State of Utah, on behalf of NASPO ValuePoint, for wireless, data and voice services and accessories ("NASPO Contract");

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and is willing to perform such services, and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Sarah Witmer at phone number 805-568-2691 and email switmer@countyofsb.org is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Melissa Togo at phone number 949.286.6761 and email melissa.togo@verizonwireless.com is the authorized representative for CONTRACTOR. Changes to a Party's designated representative shall be made only after advance written notice to the other Party.

2. NOTICES

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each "Notice") shall be in writing and addressed to the receiving Party at its address set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section), by personal delivery, facsimile, by first class mail via the United States Postal Service ("USPS"), registered or certified mail, or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: Sarah Witmer
General Services, Procurement Services
260 N San Antonio Rd
Santa Barbara, CA 93110

To CONTRACTOR: Melissa Togo
Cellco Partnership dba Verizon Wireless
15505 Sand Canyon Ave, Bldg C
Irvine, CA 92618

If sent by first class mail, Notices shall be deemed to be received five (5) days following their deposit in the USPS mail. This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

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3. SCOPE OF SERVICES

CONTRACTOR shall provide to COUNTY the services (the "Services") set out in statements of work to be issued by COUNTY and accepted by CONTRACTOR (each, a "Statement of Work"). The initial accepted Statements of Work are attached hereto as Exhibit A-1, A-2 and A-3, and incorporated herein by reference. Additional Statements of Work substantially in the same form as the Statements of Work attached hereto shall be deemed accepted and incorporated into this Agreement only if signed by each Party's duly authorized designated representative. For purposes of this Agreement, the COUNTY Purchasing Agent is the designated agent of the COUNTY who is duly authorized to accept and sign such additional Statements of Work on behalf of COUNTY.

4. TERM

The term of this Agreement ("Term") shall commence upon the first date that this Agreement is duly executed by all the parties hereto ("Effective Date") and shall terminate upon completion of the Services under all Statements of Work, but no later than June 30, 2025 unless otherwise directed by COUNTY or unless earlier terminated in accordance with the provisions of this Agreement.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance of the Services under this Agreement in accordance with the terms of EXHIBIT B, attached hereto and incorporated herein by reference, in a maximum aggregate amount not to exceed the Maximum Contract Amount set forth in Exhibit B. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY, delivered to COUNTY at the address for Notices to COUNTY set forth in Section 2, above, following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from delivery of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees) shall perform all of the Services under this Agreement as an independent contractor as to COUNTY, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations hereunder in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the Term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement. CONTRACTOR has no authority to commit, act for or on behalf of COUNTY, or to bind COUNTY to any obligation or liability.

7. STANDARD OF PERFORMANCE

CONTRACTOR certifies that it has the skills, expertise, and all licenses and permits necessary to perform the Services. Accordingly, CONTRACTOR shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the highest standards of quality observed

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by professionals practicing in CONTRACTOR's profession. CONTRACTOR shall correct any errors or omissions in the performance of the Services, at COUNTY'S request without additional compensation. CONTRACTOR has and shall, at CONTRACTOR's sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR's obligations under this Agreement. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement, and shall make any and all payroll deductions required by law. CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Intentionally omitted.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

13. COUNTY PROPERTY AND INFORMATION

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All of COUNTY's property, documents, information, and data provided to or accessed by or on behalf of CONTRACTOR in connection with the Services, including, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of COUNTY in connection with this Agreement ("COUNTY Property") and any derivative works of the COUNTY Property shall remain COUNTY's property, and CONTRACTOR shall return or delete COUNTY Property whenever requested by COUNTY, and whenever required in accordance with Section 19 of this Agreement. CONTRACTOR may use COUNTY Property solely for the purpose of, and only to the extent necessary for, CONTRACTOR's provision of the Services hereunder. CONTRACTOR shall not disclose, disseminate, publish, or transfer to any third party, any COUNTY Property without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records directly pertinent to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. COUNTY shall have the right to audit and review such records upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If material federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to and shall comply with the indemnification and insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, subcontract, delegate, or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer") this Agreement, or any of CONTRACTOR's rights or obligations under this Agreement, without the prior written consent of COUNTY. Any attempted or purported Transfer in violation of this Section 18 shall be null and void and without legal effect and shall constitute grounds for termination. No

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Transfer shall relieve CONTRACTOR of any of its obligations hereunder.

19. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill its obligations hereunder.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, State or COUNTY governments, or sufficient funds are not otherwise available for payments hereunder in the fiscal year(s) covered by the Term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence, and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of the provisions hereof, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part upon written notice ("Termination Notice"). Upon receipt of such Termination Notice, CONTRACTOR shall immediately discontinue all Services (unless otherwise directed in such Termination Notice) and notify COUNTY in writing of the status of CONTRACTOR's performance of Services hereunder. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option, terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written Notice to COUNTY of such late payment.
- C. Upon termination, to the extent applicable, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory Services performed as of the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the Maximum Contract Amount, or for profit on unperformed portions of Services. CONTRACTOR shall furnish to COUNTY such information as in the judgment of COUNTY is necessary to determine the reasonable value of the Services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the Services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

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20. SECTION HEADINGS

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of either Party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to each Party shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of each Party.

25. ENTIRE AGREEMENT AND AMENDMENT

This Agreement, including all Exhibits attached hereto, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof, and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, duly executed by each of the Parties and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns in accordance with Section 18, above.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all applicable County, State and Federal ordinances and statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

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28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. ORDER OF PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions contained in the numbered sections of this Agreement shall prevail over those in the Exhibits. If any Statement of Work, or quotes provided by CONTRACTOR incorporated into a Statement of Work, include any standard printed terms from CONTRACTOR, or any hyperlinks to standard terms or other provisions from CONTRACTOR ("CONTRACTOR's Terms"), CONTRACTOR agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the COUNTY's terms set forth in the numbered sections of this Agreement and Exhibits B, C, D and E hereto, on the one hand, and CONTRACTOR's Terms, on the other, the County's terms shall take precedence and control, followed by (i) task orders or similar orders issued by a COUNTY department pursuant to a Statement of Work, and then (ii) CONTRACTOR's Terms, if any.

33. REQUIRED FEDERAL PROVISIONS

The Parties agree to, and CONTRACTOR shall abide by, the terms and conditions set forth in Exhibit D (Required Federal Provisions), attached hereto and incorporated herein by reference, with respect to all Statements of Work which indicate the applicability of such Required Federal Provisions.

Master Services Agreement for Services of Independent Contractor by and between
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IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date executed by
COUNTY ("Effective Date").

APPROVED AS TO FORM:

Rachel Van Mullem

County Counsel

Signed by:
By: Tyler Sprague
0AC56B88DE45F483...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA, CPFO

Auditor-Controller

DocuSigned by:
By: [Signature]
6BAAEA15901943F...
Deputy

APPROVED AS TO FORM:

Gregory Milligan

Risk Management

DocuSigned by:
By: Gregory Milligan
05E555E00269466...
Risk Manager

BOARD AUTHORIZATION EXECUTION:

Date: 08/20/2024

Minute Order Number:

APPROVED AS TO FORM:

Phung Loman

General Services – Procurement Services

By: _____
Chief Procurement Officer

CONTRACTOR:

Cellco Partnership dba Verizon Wireless

DocuSigned by:
By: Clif Miller
7320C9CE2851447...
Authorized Representative

Name: Clif Miller

Title: Sr. Director

**Master Services Agreement for Services of Independent Contractor by and between
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EXHIBIT A-1

COUNTYWIDE STATEMENT OF SERVICES

Cellco Partnership dba Verizon Wireless currently provides the County of Santa Barbara with Wireless Data, Voice and Accessories under the CALNET Contract and NASPO Contract (collectively, the “Cooperative Agreements”), both of which were competitively procured and provide the County with, inter alia, discounted pricing, no term commitments for standard services, and a dedicated account representative.

The Cooperative Agreements are attached hereto as and incorporated herein as the following Exhibits:

- Exhibit A-2: CALNET / Verizon Wireless C4-CVD-19-001-03, Subcategory 19.1 (Cellular Voice and Data Services) and 19.2 (First Responders Cellular Services) Agreement and Rates, with a term through June 30, 2025, and an option to extend the term through June 30, 2027 ([“CALNET Contract”](#)).
- Exhibit A-3: NASPO Valuepoint / Verizon Wireless Master Agreement MA152-1 with the State of Utah, on behalf of NASPO ValuePoint, for wireless, data and voice services and accessories. This agreement is valid through August 11, 2024 and has been granted a 5-year extension for an expiration of August 11, 2029 ([“NASPO ValuePoint Contract”](#)).

The County has a master account with Verizon Wireless, and sub-accounts are created under the master account for each County department as necessary, based on usage. Each department is responsible for the payment of its respective invoices each month. The following table lists the departments, department representatives and the contracts they are using.

Agency / Department	Departmental Admin	Phone	Email	Profile	Contract
County of Santa Barbara	Parent Acct			31275	MA152
County of Santa Barbara - Clerk Recorder	Vanessa Graeff	805-568-2214	vgraeff@countyofsb.org	586042	MA152
County of Santa Barbara - Fleet Services	Erik Barker	805-934-6120	ebarker@countyofsb.org	5249712	CALNET
County of Santa Barbara - Board of Supervisors	Wesley Welch	805-568-3107	wwelch@countyofsb.org	4166271	MA152
County of Santa Barbara - Communications	Andras Liphthay	805-681-5577	aliphthay@countysb.org	2687586	CALNET
County of Santa Barbara - District Attorney	John De Alba	805-568-2434	jodealba@countyofsb.org	4726788	CALNET 19.1
County of Santa Barbara - Executive Office	Dawn Holden	805-568-3107	dholden@countyofsb.org	31275	MA152
County of Santa Barbara - Fire	Jeremy Camacho	805-681-5519	jeremy.camacho@sbcfire.com	821299	CALNET 19.2
County of Santa Barbara - Fire (NASPO)	Bill Lupo	805-681-5453	wlupo@countyofsb.org	7482936	MA152
County of Santa Barbara - GSA	Traci Lothery	805-934-6506	tlothery@countyofsb.org	1871232	MA152
County of Santa Barbara - ITD Services	Laura Manning	805-568-2528	lmanning@countyofsb.org	2771703	MA152
County of Santa Barbara - Human Resources	Vanessa Hernandez	805-403-2141	VHernandez@countyofsb.org	2827230	CALNET
County of Santa Barbara - Office of Emergency Mgmt.	Kendall Johnston	805-681-5526	KeJohnston@countyofsb.org	7660708	MA152

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County of Santa Barbara - Planning & Development	David Mitchell Linda Liu	805-568-2065 805-568-2035	mitchelld@countyofsb.org lliu@countyofsb.org	5136128	MA152
County of Santa Barbara - Probation Agency	Leigh Hunter O'Neil	805-739-8600	lhunter@countyofsb.org	742364	CALNET 19.1
County of Santa Barbara - Public Health	Pedro Meza	805-681-5110	pmeza@sbcphd.org	957046	MA152
County of Santa Barbara - Public Works	Larry Loman	805-568-3052	llowman@countyofsb.org	1022119	MA152
County of Santa Barbara - Sheriff	Elissa Hurd	805-681-4726	eah2804@sbsheriff.org	962223	CALNET 19.2
County of Santa Barbara - Social Services	Sean Boal Bethany Brewington	805-346-7248 805-346-7150	sboal@countyofsb.org bbrewing@countyofsb.org	140875	MA152
County of Santa Barbara - Treasurer Tax Collector	Juan Rueda De Leon	805-568-2937	jdeleon@countyofsb.org	3446617	MA152
County of Santa Barbara - PWA Flood Control	Larry Loman	805-568-3052	llowman@countyofsb.org	980516	CALNET 19.1
County of Santa Barbara - ITD Phone Services	Stacy Janos	805-681-5587	sjanos@countyofsb.org	2687586	CALNET 19.1
Santa Barbara County Association of Governments	Andras Liphthay	805-681-5577	aliphthay@countysb.org	2762582	MA152

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**EXHIBIT A-2
CALNET Contract**

CALNET / Verizon Wireless C4-CVD-19-001-03
Subcategory 19.1 and 19.2

IFB C4CVD18 FOR

**CATEGORY 19
CALNET CELLULAR VOICE AND DATA SERVICES**

**SUBCATEGORY 19.1 CELLULAR BUSINESS SERVICES SUBCATEGORY 19.2 FIRST RESPONDERS CELLULAR
SERVICES**

STATEMENT OF WORK BUSINESS REQUIREMENTS

February 20, 2019

Addendum 6

Issued by:

STATE OF CALIFORNIA

California Department of Technology Statewide Technology Procurement PO Box 1810
Rancho Cordova, CA 95741

Disclaimer: The original PDF version and any subsequent addendums of the IFB released by the Procurement Official of this Bid remain the official version. In the event of any inconsistency between the Bidder's versions, articles, attachments, specifications or provisions which constitute the Contract, the official State version of the IFB in its entirety shall take precedence.

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Amendment Log

Amendment #	Date	Amendment Description
Amendment 1	05/01/2020	<ul style="list-style-type: none"> • Remediation Changes to support digital accessibility in accordance with department of policy • Administrative changes to delete headers and footers for remediation purposes • Replace INTENTIONAL BLANK PAGE with Amendment Log, • Clean up language to Sections C.8. • Memorialized previously agreed to language related to the Individual Price Reductions (Section C.9).
Amendment 2	1/15/2021	<ul style="list-style-type: none"> • Memorialized previously agreed to language related to Data Files and reporting changes. Affected Sections: C.4.3, C.4.4, C.4.5, C.5.2, C.5.3, C.5.4 and C.5.5., • Section C.2.3. Removed reference to eVAQ Section 67 due to conflict in language., • Section C.6. Item 10, Clarified language to apply to only Category 19.1.

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SOW BUSINESS REQUIREMENTS

C.1 OVERVIEW (M)

This Section of IFB C4CVD18 provides the State's solicitation for the SOW Business Requirements associated with the SOW Technical Requirements described in Category 19, CALNET Cellular Voice and Data Services.

The Cellular Voice and Data Services will be managed on a day-to-day basis by the CALNET Contract Management and Oversight (CALNET CMO).

C.1.1 BIDDER RESPONSE REQUIREMENTS (M)

Throughout this IFB C4CVD18, Bidder is required to acknowledge acceptance of the Requirements described herein by responding to one (1) of the following:

Example A (for Requirements that require confirmation that the Bidder understands and accepts the Requirement):

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

Or,

Example B (for responses that are only applicable to Bidders who intend to bid on Subcategory 19.1 only):

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT Bidding Subcategory 19.1)*

C.1.2 DESIGNATION OF REQUIREMENTS (M)

All SOW Business Requirements specified in this Section are Mandatory and must be responded to as identified in this IFB C4CVD18, Part 1, Section 3.3.2.1, *SOW Mandatory Business Requirements* by the Bidder. The Customers will have the option whether or not to order services or features included in the Contract.

Costs associated with these SOW Business Requirements shall be included in the prices provided by the Bidder for the individual items included in the Cost Worksheets. Items not listed in the Cost Worksheets will not be billable by the Contractor.

C.1.3 PACIFIC TIME ZONE (M)

Unless specific otherwise, all Requirements are stated in the Pacific Time Zone and the Contractor shall use the Pacific Time Zone.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.2 CALNET PROGRAM REQUIREMENTS

C.2.1 CONTRACTOR RESPONSIBILITIES (M)

The Contractor shall, unless otherwise specified in this IFB, ensure all SOW Business Requirements shall be met and delivered by the Contractor regardless of whether the Subcontractors or Affiliates provide services to the Customers. The Contractor shall provide all reports, tools, procedures and other Deliverables that incorporate all the Contractor, Subcontractor and Affiliate information and activity. All exceptions must be approved by the CALNET CMO in writing.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.2.1.1 Marketing Requirements (M)

1. Neither the Contractor, Subcontractors nor Affiliates will express or imply any association with CALNET through their marketing nor shall they use the CALNET brand without prior written approval from the CALNET CMO;
2. Contract marketing activities shall represent and be limited to the Contractor's Subcategory; and,
3. The Contractor shall not present or sell services that are NOT available on the Contract in a manner that implies to the Customer the service will be made contractually available.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.2.1.2 United States (U.S.) Based Services

C.2.1.2.1 United States Based Service Processing (M)

All of the Contractor's services must be provided from Facilities located in the United States or U.S. Territories.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.2.1.2.2 United States Personnel Location Access Restriction (M)

Management and/or administrative access to servers, the network, or network Equipment directly associated with any CALNET service shall only be accessed within the confines of the United States or U.S. Territories. No personnel located at non-U.S. locations shall be allowed access.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.2.1.2.3 United States Based Support Personnel (M)

All CALNET direct technical and administrative support personnel must be located within the United States or U.S. Territories.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.2.1.3 Customer Proprietary Network Information (CPNI) (M)

The Contractor shall not use or share CPNI for any activity other than as permitted by applicable law and with the approval of the Customer.

The Contractor shall provide reasonable written notification to the Customer prior to the disclosure of CPNI, except where expressly authorized by the Customer. Such notification shall indicate the reason for the CPNI disclosure.

Upon the CALNET CMO's request, the Contractor shall provide a detailed description of their process for obtaining CPNI permission from the Customer.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.2.2 CONTRACTOR PROGRAM MANAGER (CPM) RESPONSIBILITIES (M)

The Contractor shall assign a Contractor Program Manager (CPM) that will be available to the CALNET CMO throughout the Contract Term along with all pertinent contact information, phone and email.

The CPM shall ensure compliance with the Contract Requirements. Responsibilities include, at a minimum:

1. The CPM shall be the CALNET CMO's primary point of contact and ensure the Contractor is compliant with all terms and conditions of this IFB C4CVD18, including technical solutions, performs administrative functions, reporting, and Contract management functions;
2. Respond within five (5) Business Days to the State's Program Manager's requests;
3. Attend regularly scheduled CALNET Executive Meetings and ad hoc meetings either in person or remotely via conference call in order to address Contract compliance or Customer service issues;
4. The Contractor must notify the CALNET CMO within five (5) Business Days of a change of status of the CPM;
5. The CPM shall be the point of contact to ensure that the resources necessary to support all of the contractual Requirements in this IFB C4CVD18 are available throughout the Contract Term; and,
6. Upon the CALNET CMO's written requests, the Contractor shall provide Contract-related information within ten (10) calendar days. An extension for time shall be at the discretion of the CALNET CMO.

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Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.2.3 Contract Program Management Performance

To ensure Contractor accountability and Contractor performance of administrative, reporting, relationship management, and contract management functions, the State has identified a list of deficiencies and charges in the table below. The State's objective is not to levy charges, but to work with the Contractor to identify and resolve performance deficiencies.

The CALNET CMO and the CPM shall exercise the provisions described in Table C.2.3, *Contract Program Management Performance Deficiency and Charges*, in resolving performance deficiency issues using the following sequence of actions:

1. CALNET CMO shall notify CPM of performance deficiency occurrence(s) in writing.
2. CALNET CMO and CPM shall meet and confer at the State's discretion to discuss alternative remedies and/or cures for example, the addition of Services and Equipment to the Contract or discontinuance of Services and Equipment to the Customer.
3. The cure period shall be 60 calendar days or two billing cycles from the date of notification, whichever is longer, unless otherwise directed by the State to allow more time for corrective actions.
4. If the Contractor continues to be noncompliant with the identified Contract performance deficiency after the cure period set by the CALNET CMO, the State may invoice Contractor for the deficiency charges detailed in Table C.2.3 (Contract Program Management Performance Deficiencies and Charges).
5. Contractor shall pay the invoice within 30 calendar days of receipt or notify the CALNET CMO within ten (10) Business Days if it intends to dispute the invoice per eVAQ Section 54, *Disputes*.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.2.3.1 Contract Program Management Performance Deficiencies and Charges

Table C.2.3 below describes the deficiency and charges for Contractor's performance.

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Table C.2.3, Contract Program Management Performance Deficiencies and Charges

	Deficiency	Charges
1.	Contractor sells services and/or equipment to CALNET Customers that are not available on the Contract in a manner that implies to the Customer the services or equipment are contractually available (Section C.2.1.1, Item 3).	Up to \$500 per Service Request. Charges shall occur on a single per Service Request basis and shall not incur as a per monthly charge. If a Service and/or Equipment has been identified and is in the cure process, no additional instances shall result in additional charges.
2.	Contractor fails to provide Contract related information to CALNET CMO's written request within ten (10) calendar days or within the CALNET CMO's approved extended timeframe (Section C.2.2, Item 6).	Up to \$1,000 per CMO request for information/ up to \$250 per week thereafter until Contractor's information is received by the CALNET CMO.
3.	Contractor sells services or equipment to an entity not authorized by the State. (Section C.3.2.1, <i>Customer Verification</i>). (Appendix C, Authorization to Order for Subcategory 19.1).	Up to \$500 per Service Request. Charges shall occur on a single per Service Request basis and shall not incur as a per monthly charge.
4.	Contractor fails to provide reports and contract data within the specified timeframe as defined in Section C.4 and C.5.	Up to \$1,000 per report and/or data file and \$200 per day thereafter until Contractor provides reports and contract data, as defined.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3 PROVISIONING AND PLANNING (M)

This Section describes the support responsibilities of the Contractor for activities related to the Customer's acquisition of CALNET Cellular Voice and Data Services as defined in this IFB C4CVD18. All Equipment must be new unused and supported by the Contractor at the time of purchase. Refurbished or used items will only be used for Customized Service Plans. The Contractor shall be responsible for the coordination and processing of all acquisitions for services provided by the Subcontractors and Affiliates.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.3.1 GENERAL REQUIREMENTS (M)

The Contractor shall:

1. Not charge for activation fees;
2. Notify the CALNET CMO in writing within one (1) Business Day of the Contractor's receipt of the first complete Service Request for CALNET Cellular Voice and Data Services;
3. Provide technical and business resources to the CALNET CMO and to the Customers for information on pricing, features, and feature interactions/restrictions. The Contractor's staff shall be available by telephone to participate in meetings to answer questions about contracted services. The Contractor shall ensure that the Contractor's staff, including the Subcontractors and Affiliates, are trained on Contract services and are knowledgeable on Contract terms and conditions;
4. Provide a toll-free telephone number for Provisioning and status inquiries Monday through Friday, 8:00 a.m. to 5:00 p.m.;
5. Ensure charges for services cease on the Customer requested disconnect date; and,
6. Not charge to disconnect a service.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.2 PROVISIONING AND IMPLEMENTATION

C.3.2.1 Customer Verification (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall:

Verify the Customer's authority to order services by verifying the information contained in the CALNET Application Management Systems (CAMS) for each Service Request for:

1. State Customers - identified as a Chief Agency Telecommunications Representative (CATR) or an Agency Telecommunications Representative (ATR);
2. Non-State Customers - identified by a fully executed Authorization to Order (ATO); (IFB C4CVD18 Appendix C, Authorization to Order – Subcategory 19.1).

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

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C.3.2.2 Order Forms (M)

The Contractor shall:

Accept the following State forms in accordance with IFB C4CVD18 Part 1,
General Instructions:

1. Equipment – State of California Standard Purchasing Authority Purchase Order STD.65
2. Service – State of California Standard Telecommunications Service Request Form 20 (STD.20)
3. Authorized Non-State Customer Purchasing Document
4. Process and complete the Customer’s orders within five (5) Business Days.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.3 LIABILITY FOR NON-AUTHORIZED PURCHASES (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall only accept orders or modify a Customer account as described in Section C.3.2 above for CATR/ATR or ATO designee.

The Contractor shall assume liability for costs incurred as a result of accepting an order from an unauthorized Customer.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.4 ACCEPTANCE TESTING PERIOD (M)

The Contractor must provide the Customer a 30-day acceptance period to test Equipment and coverage, commencing at the later date of either service activation or Equipment receipt. During this acceptance period the Customer may cancel service if coverage is not acceptable, i.e., consistently dropped calls, poor signal strength, call quality, or if the Equipment is not acceptable, and will incur no termination penalties.

The Customer will incur standard service charges during this acceptance period. The Contractor will provide a full refund for purchased Equipment that is returned, including return shipping costs. Contractor shall provide the Customer with a prepaid return label or prepaid self-addressed container suitable for returning the item within five (5) Business Days of the Customer notification. Once Equipment has been received and tested and does not meet the Requirements mentioned above, the Customer may utilize another Contractor.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.3.5 STANDARD ORDER ACKNOWLEDGEMENT (M)

The Contractor must provide the Customer with an order acknowledgement within one (1) Business Day after receipt of order.

The order acknowledgement must include the following:

1. Equipment and or service plan purchased;
2. Customer Service Request Number/Purchase Order Number;
3. The Contractor Order Number (if applicable);
4. Authorized Ordering Customer Name; and,
5. Ship to address.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.6 OUT OF STOCK NOTIFICATION (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall notify the Customer within one (1) Business Day after order acknowledgement if an item is out of stock.

The Customer shall have the option of substituting an available product or cancelling the item from the order, in which case the Contractor must provide an option to get comparable Equipment to the Customer within 15 days of the order at no additional cost.

Under no circumstance is the Contractor to make unauthorized substitutions.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.7 SHIPMENT CONFIRMATION (M)

The Contractor must provide a shipment confirmation to the Customer the day of order shipment. The shipment confirmation must contain the following information:

1. Date shipped;
2. Tracking number;
3. Customer name; and,
4. Additional information mutually agreed upon the by the Customer and the Contractor.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.3.8 UNFILLED ORDERS (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall inform the Customer in writing of the available date of unfilled and partial shipment orders within three (3) Business Days of order acknowledgement. Unfilled orders and partial shipments shall be indicated on the packing list.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.9 ACCOUNT CHANGE/TERMINATION ACKNOWLEDGEMENT (M)

The Contractor must provide the Customer with an account change or termination acknowledgement within 24 hours of a request.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.10 CELLULAR NUMBER PORTABILITY (M)

The Contractor shall allow the Customers with eligible phone numbers to retain their phone numbers when changing service providers and devices, or when moving a phone number from a local number wireline device to a cellular device.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.11 WARRANTY

C.3.11.1 Equipment Warranty (M)

Equipment is covered by the manufacturer's consumer warranty that will be passed through to the Customer. The Contractor shall provide manufacturer's warranty information (terms and conditions, provider, etc.) to the Customer with all Equipment at the time of delivery. The Contractor shall work with the Customer to facilitate Equipment replacement.

Contractor shall provide the Warranties set forth in the eVAQ, Section 22, *Warranty*

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.11.2 Product Recall Notification to the CALNET CMO (M)

The Contractor shall notify the CALNET CMO and the Customers about any product recall by the Manufacturer.

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Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.12 SERVICE ACTIVATION, TERMINATION AND ACCOUNT CHANGES

C.3.12.1 Service Activation – New Customer – New Equipment (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall ship Equipment ready-for-use within five (5) Business Days of receipt of Service Request, excluding activations involving number portability.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.12.2 Service Activation – Existing Customer – Replacement/Upgrade Equipment (M)

This Requirement applies to Subcategory 19.1 only.

Replacement Equipment shall be shipped inactive, unless specified otherwise on the purchase document within five (5) Business Days, of receipt of Service Request. The Contractor shall activate service for the replacement/ updated Equipment within 24 hours of the Customer notification.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____ N/A
_____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.12.3 Plan Changes Fees (M)

The Bidder agrees that there will be no change fees when a Customer changes service plans. The Bidder also agrees there will be no limits placed on the number of changes that can be made.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.12.4 Termination (M)

The Contractor shall terminate service and complete requested plan changes within one (1) Business Day of the Customer notification or upon the Customer requested date.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.3.12.5 Termination Fees (M)

The Customers may cancel service without termination fees.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.12.6 Account Changes (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall make account changes and complete requested plan changes within one (1) Business Day of the Customer notification, excluding account changes involving number portability.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____ N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)

C.3.13 DELIVERY (M)

C.3.13.1 Delivery Cost (M)

All prices provided shall be Free-On-Board (FOB) Destination; freight prepaid by the Contractor, except for expedites per Section C.3.13.3, *Delivery – Emergency and/or Expedite Orders*. Responsibility and liability for loss or damage for all orders shall remain with the Contractor until final inspection and acceptance, when all responsibility shall pass to the Customer.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.13.2 Delivery Timeframe (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor must complete delivery of in-stock products within a maximum of five (5) Business Days after order acknowledgement.

For out of stock item, refer to Section C.3.6, *Out of Stock Notifications*.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____ N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)

C.3.13.3 Delivery – Emergency and/or Expedite Orders (M)

The Contractor shall provide expedited 24 hour delivery as requested by the Customer for new, replacement and upgrade Equipment.

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The Contractor may invoice the Customer an expedite charge in accordance with line items defined in the Catalog.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.13.4 Shipped Equipment (M)

The Contractor shall provide a packing slip for all shipped orders, which includes the following:

1. The Customer name, section or unit name, location (street address building floor and room numbers);
2. Designate contact/name of ordering person if different than the Customer authorized to place order;
3. Ship to address;
4. Contractor Order number;
5. Description of items; and,
6. Additional information as mutually agreed upon by Contractor and Customer.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.3.13.5 Freight-Damaged or Defective Items (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall provide credit and/or replacement for freight- damaged or defective items and replace the items within two (2) Business Days after notification by the Customer. The Contractor will be responsible for the credit and or replacement of any freight- damaged or defective products at time of delivery. The Contractor shall not require the Customer to deal directly with the manufacturer. Additionally, the Contractor shall provide the Customer with a prepaid return label or prepaid self-addressed container suitable for the item's return within five (5) Business Days of the Customer notification.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)

C.3.13.6 Items Shipped In Error (M)

This Requirement applies to Subcategory 19.1 only.

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The Contractor must accept returns of items shipped in error and credit the Customer for the full amount. Additionally, the Contractor shall provide the Customer with a prepaid return label or prepaid self- addressed container suitable for returning the item within five (5) Business Days of the Customer notification. Delivery of correct items will be at no cost to the Customer.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.3.13.7 Restocking Policy (M)

The Contractor shall not impose a restocking fee if an item is returned due to damage or an order shipped in error by the Contractor. The Contractor shall not impose restocking fees for exchanged items.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.4 CELLULAR CONTRACT DATA REQUIREMENTS (M)

The Contractor shall adhere to the following requirements for cellular Contract data. The State reserves the right to make updates to this section to accommodate the State’s reporting needs no more than annually.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.4.1 DATA REPORTING REQUIREMENTS (M)

The Contractor shall meet the following Data Reporting Requirements:

1. The Contractor shall provide data that allows the State to perform the following oversight functions:
 - Identification and validation of products/services and rates;
 - Compilation of statistics on products/services from a high level to a detailed level;
 - Development of inventory and expenditure reports;
 - Development of products/services trend reports;
 - Identification and validation of the Contractor’s Customer Billing (to include all charges, service taxes, surcharges, and sur-credits, refunds, and adjustments);
 - Identification and validation of the State Associated Administrative Fee (SAAF); and
 - Validation of Service Level Agreement compliance.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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2. The Contractor shall provide the data specified below within 90 calendar days of receipt of the Contractor's first Service Request related to this IFB, or prior to the Contractor's commencement of any applicable Plan identified in Section C.10, *Conversion*, whichever occurs first. If the Contractor requires additional time beyond the 90 calendar days, the Contractor shall be allowed a six (6) month extension to meet this requirement if the Contractor provides reports of CALNET data consistent with established State of California mobility reporting as defined in previous State mobility contracts beginning with the first Service Request or commencement of Section C.10, *Conversion*, whichever occurs first.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

3. The Contractor shall provide ad hoc reports as requested by the State at no cost to the State and acknowledge within two (2) Business Days of receipt of request to determine the time frame agreed upon between the Contractor and the State;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

4. The Contractor shall provide monthly data files to the State within 45 calendar days of the end of each reporting period;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

5. The Contractor shall ensure data files include all services provided under this Contract relative to each reporting period;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

6. Data files and reports shall include data from Subcontractors and Affiliates relative to that reporting period;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

7. The Contractor provided reports and data files shall not include data for non-contracted services, products and equipment;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

8. Contractor shall update reports and data files reflect with any future changes made to the SAAF charges on Contracted services. This shall be done at the request of the State, and the State must approve all changes;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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9. Contractor shall proactively correct and resubmit all inaccurate and/or incomplete reports or data files to the CALNET CMO to ensure compliance with reporting requirements within 30 calendar days of notification; and,

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

10. All data formats shall be approved by the CALNET CMO and no changes shall be made to the data fields, format, or headings within data files or reports without prior written consent of the CALNET CMO.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.4.2 DATA EXCHANGE

The Contractor shall support the data exchange methods described below for standardized data files and reports. The method of data exchange for standardized data/reports shall be one of the following as agreed upon between the Contractor and the State.

1. CAMS File Upload Process

The CALNET Automated Management System (CAMS) (Link: [CAMS](#)) is an application the State uses for specific Oversight needs and Contractor Management of the CALNET contract. CAMS includes a file upload process for Contractors to use as a method of delivery of data to the State. For data that the State request be uploaded to CAMS, Contractors shall be required to use the CAMS File Upload User Interface (UI) to submit their data (zipped text files) to the State. Instructions on using CAMS will be provided separately as part of the CAMS Reference Guide.

2. *Other Methods of Exchange*

As requested by the State, the Contractor shall provide CALNET data and reports through private portal, secured email, encrypted USB drive, Secured File Transfer Protocol or other media sources.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.4.3 DATA FILE LABELING CONVENTION

Unless requested otherwise, the Contractor shall use the following Data File Labeling Convention on all reports defined within Section C.5, *Cellular Data Files and Reports*:

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Data Item	Chars	Description
Con	2	Unique Contractor Code assigned to the Contractor and provided by the CALNET Program
underscore	1	“ ” _
cyc	2	Two character cycle assigned by the CALNET Program to represent the phase of CALNET Procurement that the contract is a part of Example: C4
underscore	1	“ ” _
reportname	10	The report name as defined within each report specification <u>Examples</u> MCELLEQUIP MCELLSVSUM MCELLADFEE
mmddyyyy	8	File Creation Date (the date the report was completed)
.ext	varies	File Extension identifying the file format (file format is defined within each specific report specifications) <u>Examples</u> “txt” – delimited text file “zip” – zipped file “xlsx” – Microsoft Excel file “accdb” – Microsoft Access file

FORMAT: Con cyc_reportnamemmddyyyy.ext EXAMPLE:

14_C4_MCELLEQUIP08012018.ZIP

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.4.4 Data File Structure and Data Formatting

The Contractor shall meet the following requirements:

1. Data files shall be formatted with all data fields delimited by pipes (“|”) (on both header and data records);

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

2. When requested, Reports shall be provided in MS Excel, MS Access, or other format, as defined and requested by the CALNET CMO;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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- All records in data files (including the header record) shall end with a <CR><LF>, except the trailing or last record;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- The first record of each data file or report shall be a required header record that labels the columns using the field order and data field names as detailed in the Data Record Definition for each data file or report

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- Data records shall immediately follow the header record. The formatting of data records shall be defined within the individual Data Record Definition for each data file or report;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- The Contractor shall not include any subheadings or subtotals on data files and reports, unless requested by the CALNET CMO;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- Data fields defined as data type "Percentage" or "Currency" shall be converted to a "Decimal" value before submitting to the CALNET CMO, unless otherwise directed by the CALNET CMO;

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- Data fields that are left blank shall contain a delimited placeholder; and,

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

- Data fields shall be populated based on what is coded in the "populate" ("Pop") column of the Data Record Definition for each data file or report. The "Pop" column is coded as follows:

POP	Description
R	REQUIRED: Field must always be populated
A	IF APPLICABLE: Field must be populated if it is applicable to the Service Type and Feature Name
N	Field shall never be populated for the specified scenario

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Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.5 CELLULAR DATA FILES AND REPORTS

C.5.1 CUSTOMER IDENTIFIER DATA

The Contractor shall provide the data files and reports specified below within 90 calendar days of receipt of the Contractor's first Service Request related to this IFB, or prior to the Contractor's commencement of any applicable Plan identified in Section C.10, *Conversion*, whichever occurs first. If the Contractor requires additional time beyond the 90 calendar days, the Contractor shall be allowed a six (6) month extension to meet this requirement if the Contractor provides reports of CALNET data consistent with established State of California mobility reporting as defined in previous State mobility contracts beginning with the first Service Request or commencement of Section C.10, *Conversion*, whichever occurs first.

The Contractor shall populate Data Files and Reports with Customer Identifier Data. The data shall include Customer Names, Customer Codes, and assigned Sector and Subsector. The Customer Identifier Data will be provided by the CALNET CMO.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.5.2 Service BILLED Summary Data

Filename: MCELLSVSUM

File Frequency: Monthly

File Format: Pipe "|" delimited text file (zipped)

File Description: The Contractor shall provide CALNET Cellular Business Voice and Data Services and Equipment summary billing information for all CALNET Cellular Business Voice and Data services to the CALNET CMO as a data file. The Services Billed Summary Data shall include the following as applicable:

- Criminal Justice Information Services Compliance Solution
- Push-To-Talk solution
- Cellular Building Amplification Services
- Voice and Text Service Plan for Basic Phones
- Voice, Text and Data Service Plans
- Data Only Service Plans
- Machine-to-Machine and Internet of Things (M2MIoT) Service Plans
- Domestic to International Calling and Messaging Services
- International Roaming
- Suspend Service Plan
- Customized Service Plans
- Equipment
- Expedite Fees

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The data file shall be driven by the Charge Type. Charge Types are listed below.

Charges	
Charge type	Charge Description
NRC	Non-recurring charge
MRC	Monthly recurring charge
USG	Usage
PRC	Prorated charge (PRC may be reported as an MRC where Contractor reporting does not differentiate between an MRC and PRC)
ADJ	Adjustment
TAX	Tax Charge

The data file shall contain all feature components for the service listed as individual data records directly under the service, and shall include data for the Service Month being reported.

- Each charge shall be reported on a new record.
- Back billing for services or features shall be reported as a separate data record for each Service Month.
- Partial months of service with prorated charges shall be reported as a separate data record (prorated charges may be reported as monthly recurring charges where Contractor reporting does not differentiate between MRC and PRC).

State Associated Administrative Fee (SAAF) Charges: SAAF charges shall be reported on the Services Billed Summary Data file using the following options:

Option 1 – When the SAAF is a separate charge on the Invoice (per IFB C4CVD18 SOW Business Requirements, Section C.8 State Associated Administrative Fee (SAAF) and Section C.6 Billing and Invoicing), the Contractor shall present the SAAF on the Services Billed Summary Data file as SAAF data records, with each SAAF reported as a separate data record. SAAF shall be populated as follows for the fields listed below:

- CALNET Flag: populate with “A”
- Charge Type: populate with either “TAX” or “ADJ”
- Charge Amount: populate with the SAAF from the invoice
- Product ID: populate with “SAAF”
- Feature Name: populate with “State Associated Admin Fee”
- Description: populate with “State Associated Admin Fee”

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Option 2 – When SAAF charges are included in the Contractor’s service rate on the invoice, the Contractor shall report the SAAF on the Services Billed Summary Data file at the Product ID data record level (per the Data Record Definition - see table below).

CALNET Flag: The CALNET Flag field will be used to indicate the following:

- For data records where Charge Type not equal to “TAX” or “ADJ”, indicates if the Service or Feature is a CALNET product and populate with “Y” or “N”
- For data records where Charge Type equal “TAX”, indicates if the charge is an SAAF (populate with “A”) or other tax/surcharge (populate with “T”)
- For data records where Charge Type equal “ADJ”, indicates if the charge is a SAAF (populate with “A”) or other tax/surcharge (populate with “T”) ELSE indicates if the Service or Feature is a CALNET product (populate with “Y” or “N”)

Data Record Definition: The following data fields shall be included as columns on each data record in the order specified and follow data field specifications as detailed below. **(NOTE: the POP requirements are defined separately for this file as the requirements that a field be populated change based on the Charge Type).**

Field Order	Data Field Name	Description	Max Value	MCELLSVSUM Data Type and Format
1.	Contractor Code	A unique identifier assigned to each CALNET Contractor and provided by the CALNET CMO.	2 chars	Text
2.	Service Month	The calendar month the service and/or feature is provided or added, changed, or deleted, OR for SAAF, the calendar month the SAAF is billed or remitted to the State.	7 chars	Date MM/YYYY
3.	Contract ID	The Contract agreement number issued on the form STD 213 for each Contractor.	30 chars	Text

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Field Order	Data Field Name	Description	Max Value	MCELLSVSUM Data Type and Format
4.	Service Offering	An acronym assigned by the CALNET CMO to represent the Service Offering.	10 chars	Text <u>Example:</u> CELL
5.	Customer Code	Unique identifier for the Customer as provided by the CALNET CMO.	5 digits	Number <99999> Must include leading zeros <u>Example:</u> 00028
6.	Customer Name	Customer name as identified and provided by the CALNET CMO.	250 chars	Text
7.	Sector	The Customer's sector of government as provided by the CALNET CMO.	20 chars	Text <u>Example:</u> State
8.	Subsector	The Customer's subsector of government as provided by the CALNET CMO.	25 chars	Text <u>Example:</u> Executive
9.	BAN	A unique Billing Account Number used to designate a Customer or Customer location that is billed.	50 chars	Text
10.	BTN	A telephone number for the account billed or a sub-account identifying the party that is billed for the call or service.	50 chars	Text
11.	Invoice Number	The unique number assigned to the invoice.	30 chars	Text The unique number assigned to the invoice
12.	Invoice Date	The date the invoice was issued to the Customer.	10 chars	Date MM/DD/YYYY

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Field Order	Data Field Name	Description	Max Value	MCELLSVSUM Data Type and Format
13.	Equipment Type	The type of equipment the monthly service or feature is being used for.	50 chars	Text Equipment Types: Basic Mobile Phone, Smartphone, Mobile Hotspot Device, Tablets with SIM Cards, Accessories
14.	Subcategory	CALNET Subcategory number from which the service has been procured.	4 digits	Numeric (M, D) Where <M> is the maximum number of digits (2) and <D> is the maximum number of digits to the right of the decimal point (2) <u>Examples:</u> 19.1, 19.2
15.	Section Number	The number of the service grouping as defined in each table heading of the Contractor's CALNET Catalog.	50 chars	Text
16.	Service Type	The name of the service grouping as defined in each table heading of the Contractor's CALNET Catalog.	500 chars	Text
17.	Product ID	A unique Contractor-defined code specific to the service or feature as included in the Contractor's CALNET Catalog.	50 chars	Text
18.	Feature Name	The Feature Name as included in the Contractor's CALNET Catalog.	500 chars	Text
19.	Charge Type	A 3 character acronym assigned to the type of charge being reported on the row of data.	5 chars	Text Charge Types: NRC, MRC, USG, PRC, ADJ, TAX

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Field Order	Data Field Name	Description	Max Value	MCELLSVSUM Data Type and Format
20.	Charge Amount	The amount charged to the customer per the charge type. This is the Contractor's rate as defined in Catalog A (the raw rate) and does not include the State Associated Administrative Fee (SAAF).	20 digits	Numeric (M, D) Where <M> is the maximum number of digits (20) and <D> is the maximum number of digits to the right of the decimal point (4) and <D> varies 2 to 4 digits Strip "\$" Example: \$15.95 converts to 15.95
21.	Description	A description of the charge type being reported on the row of data.	150 chars	Text IF Charge Type equals "TAX" THEN populate with the itemized Tax Description
22.	Product SAAF	The State Associated Administrative Fee (SAAF) rate multiplied by the Contractor's rate for the charge type for the specified Product ID. Populate with 0.0000 if SAAF are not associated to the charge type for the Product ID	20 digits	Numeric (M,D) Where <M> is the maximum number of digits (20) and <D> is the maximum number of digits to the right of the decimal point (4) (Unrounded to 4 decimal places including trailing zeros) Strip "\$" Example: \$15.95 convert to 15.9500
23.	Unit of Measure	Unit of Measure for the Product ID as published on Contractor's CALNET product catalog.	50 chars	Text
24.	Quantity	Total number of billable units for the specified Product ID	30 digits	Numeric (M, D) Where <M> is the maximum number of digits (30) and <D> is the maximum number of digits to the right of the decimal point (2)

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Field Order	Data Field Name	Description	Max Value	MCELLSVSUM Data Type and Format
25.	CALNET Flag	<p>For data records where Charge Type not equal to "TAX" or "ADJ", CALNET Flag indicates if the Service of Feature is a CALNET product ("Y" or "N") Flag that indicates if the Service or Feature is CALNET product.</p> <p>For data records where Charge Type equal to "TAX", CALNET Flag indicates the charge is a SAAF ("A") or other tax/surcharge ("T") populate CALNET Flag with "T".</p> <p>For data records where Charge Type equal to "ADJ", CALNET Flag indicates if the charge is a SAAF ("A") or other tax/surcharge ("T") ELSE indicates if the Service or Feature is a CALNET Product ("Y" or "N").</p>	1 char	<p>Text</p> <p>CALNET Flag</p> <p>"A", "T", "Y", "N"</p> <p>IF SAAF data record THEN populate with "A"</p> <p>ELSE</p> <p>If Charge Type equals "TAX" THEN populate with "T"</p> <p>ELSE</p> <p>If Charge Type equals "ADJ" and an adjustment is made to taxes, then populate with "T"</p> <p>ELSE</p> <p>IF Product ID exists in the Contractor's Service Catalog THEN populate with "Y"</p> <p>ELSE</p> <p>Populate with "N"</p>
26.	Field 1	Place holder for future meta data if needed.	10 chars	Text
27.	Field 2	Place holder for future meta data if needed.	25 chars	Text
28.	Field 3	Place holder for future meta data if needed.	50 chars	Text
29.	Field 4	Place holder for future meta data if needed.	100 chars	Text
30.	Field 5	Place holder for future meta data if needed.	250 chars	Text

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POP value (based on Charge Type)							
Field Order	Data Field Name	NRC	MRC	USG	PRC	ADJ	TAX
1.	Contractor Code	R	R	R	R	R	R
2.	Service Month	R	R	R	R	R	R
3.	Contract ID	R	R	R	R	R	R
4.	Service Offering	R	R	R	R	R	R
5.	Customer Code	R	R	R	R	R	R
6.	Customer Name	R	R	R	R	R	R
7.	Sector	R	R	R	R	R	R
8.	Subsector	R	R	R	R	R	R
9.	BAN	R	R	R	R	R	R
10.	BTN	A	A	A	A	A	A
11.	Invoice Number	R	R	R	R	R	R
12.	Invoice Date	R	R	R	R	R	R
13.	Equipment Type	R	R	R	R	A	A
14.	Subcategory	R	R	R	R	R	R
15.	Section Number	R	R	R	R	A	A
16.	Service Type	R	R	R	R	A	A
17.	Product ID	R	R	R	R	A	A
18.	Feature Name	R	R	R	R	A	A
19.	Charge Type	R	R	R	R	R	R
20.	Charge Amount	R	R	R	R	R	R
21.	Description	A	A	A	A	A	R
22.	Product SAAF	R	R	R	R	A	N
23.	Unit of Measure	R	R	R	R	A	A
24.	Quantity	R	R	R	R	A	N
25.	CALNET Flag	R	R	R	R	R	R
26.	Field 1	A	A	A	A	A	A
27.	Field 2	A	A	A	A	A	A
28.	Field 3	A	A	A	A	A	A
29.	Field 4	A	A	A	A	A	A
30.	Field 5	A	A	A	A	A	A

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.5.3 AD HOC REPORTS

Filename: To be provided by the CALNET CMO at the time of the request.

File Description: The Contractor shall provide ad hoc reports as requested by the State at no cost to the State and acknowledge within two (2) Business Days of receipt of request to determine the time frame agreed upon between the Contractor and the State.

File Format: Reports shall be provided in MS Excel, MS Access, or other format, as defined by the CALNET CMO at the time of request.

Data Record Definition: The data record definition shall be defined upon request and include the required data fields, order of each data field, and the report format.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.5.4 CUSTOMER NUMBERING CONVENTIONS (M)

The Contractor shall use the most current version of the State maintained and provided list of Customer Names and Customer Identifiers for reporting. Customer Names and Customer Identifiers shall be used on all reports as directed by the CALNET CMO.

The CALNET CMO will notify the Contractor when updates are made to Customer Names and Customer Identifiers.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.5.5 DATA RETENTION (M)

All CALNET data and reports shall be retained and maintained by the Contractor in a secure environment for the periods identified in the eVAQ, Section 51, *Examination and Audit*.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.5.6 SAAF ROUNDING PROCESS

The Contractor shall work with the State to develop a plan to define a two-digit rounding process when applying the SAAF to ensure accurate charges are collected.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.6 BILLING AND INVOICING (M)

The Contractor shall provide billing and invoicing as specified below within 90 calendar days of receipt of the Contractor's first Service Request related to this IFB, or prior to the Contractor's commencement of any applicable Plan identified in Section C.10, *Conversion*, whichever occurs first. If the Contractor requires additional time beyond the 90 calendar days, the Contractor shall be allowed a nine (9) month extension to meet these requirements as long as the Contractor invoices the Customer for CALNET Services, rates and SAAF utilizing billing and invoicing formats consistent with Contractor's established State of California mobility billing and invoicing system used in previous State mobility contracts.

To ensure timely payment, the Contractor shall provide accurate monthly invoices to the Customers and provide a breakdown and explanation of all charges as specified throughout this Section. The Contractor shall integrate the Subcontractor's and Affiliate's billing data into the Contractor's Billing and Invoicing system. With the coordination and consolidation of invoices, the Contractor, its Subcontractors and Affiliates will establish processes and procedures to avoid errors. Payments to the Contractor will only be issued for receipt of the Customer validated and approved invoices.

The Contractor shall:

1. Provide a unique Product Identifier for each standardized service plan (as defined in Section 19.1.2.2 and 19.2.3.2), not including overage charges or other Peripheral Billable Items, to appear on the Customer's invoices as identified in the Catalog; "Peripheral Billable Items" shall mean additional charges related to the use of services that result from: 1) elective, end-user initiated actions such as downloads or pay-to-use services; 2) add-on feature charges, 3) cellular building amplification services fees/charges, and 4) unsolicited contract fees as set forth in Section 19.1.2.2 and 19.2.3.2, as may be amended from time to time upon mutual agreement of the parties.
2. Maintain a secure password protected web-based Billing and Invoicing application which delivers integrated monthly invoices to the Customers including services provided by the Contractor, its Subcontractors and Affiliates;
3. Provide within the Billing and Invoicing application the ability to download/export data into PDF or MS Excel 2013 or newer version document;
4. Generate monthly invoices to the Customers that are accurate and provide sufficient data for the Customers to validate and reconcile;
5. Distribute invoice(s) to authorized Customers within 15 calendar days of the end of the monthly billing cycle;
6. Utilization of the Customer Naming Conventions described in Section C.4, *Cellular Contract Data Requirements*;
7. Itemize all charges by Product Identifiers for each standardized service plan (as defined in Section 19.1.2.2 and 19.2.3.2), not including overage charges or other Peripheral Billable Items. Monthly Recurring Charges, Non-Recurring Charges, and Adjustments must be itemized and shall not be comingled;

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8. Identify late payment charges on the invoice and upon request provide proof that the late payment charge is valid;
9. Provide a Uniform Resource Locator (URL) for the Billing and Invoicing application;
10. **For Category 19.1 only:** Accept CAL-Card as an optional payment mechanism for one-time non-recurring charges only. Form STD.65 is required even when the ordering department chooses to pay the Contractor via CAL-Card. Accept CAL- Card invoices separately. The CAL-Card invoice must itemize charges, and show a balance of zero dollars (\$.00) to reflect credit card payment;
11. Invoice in arrears. The State is only authorized to pay for services that have been rendered as stated in SAM 8422.1 and SCM Volume 3 – 9.A2.0;
12. The Contractor shall not apply SAAF to non-CALNET contracted charges; and,
13. The SAAF shall appear on the customer invoice as mutually agreed to by the CALNET CMO and the Contractor. The Contractor shall have the option when invoicing CALNET services to include the SAAF in the service rate or itemize the SAAF separately.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.6.1 Invoice Content Requirements (M)

Invoice content will vary depending on the type of service. Invoices shall include data as defined below for a Customer to validate charges and for the invoice to pass an audit. Minimum invoice content Requirements are listed below:

1. Content for Initial Invoice Page
 - a. Contractor's Name and/or Logo;
 - b. Billing Account Number (BAN) or equivalent;
 - c. Invoice Number;
 - d. Invoice Date;
 - e. Current Charges;
 - f. Previous Balance – the amount reflecting any unpaid charges from previous invoice(s) that has been carried forward;
 - g. Total Amount Due;
 - h. Payment(s);
 - i. Payment Due Date;
 - j. Adjustments; and,
 - k. Toll-Free Support Line.
2. Content for Non-Recurring Charges (NRC)
 - a. Ability to verify Activation Date (if applicable); and,
 - b. Service Request Number or equivalent, when available.

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3. Content for Remittance Slip
 - a. Contractor's Name;
 - b. Remittance Address;
 - c. Invoice Number;
 - d. Invoice Date;
 - e. Current Charges;
 - f. Total amount Due; and,
 - g. Payment Due Date.
4. Additional Required Invoice Content (if applicable)
 - a. BTN, WTN or equivalent;
 - b. Feature Name;
 - c. Quantity;
 - d. Billing Period – The billing cycle for which the MRC applies;
 - e. Charge – the MRC for each Product ID;
 - f. Usage Charge – to include Call Detail Record if applicable;
 - g. Adjustments; and
 - h. Itemized Taxes, Fees and Surcharges – provided at the BTN (or equivalent) level.

Additional information shall be provided by the Contractor as necessary for a Customer to validate charges. If an invoice includes acronyms, symbols or codes the Contractor shall include a legend within the invoice.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.6.2 INVOICE DELIVERY METHODS (M)

The Contractor shall provide invoicing as identified:

1. Web-based (Paperless) - secure password protected; or,
2. Paper – double side print required

The Contractor shall issue a paper Remittance Slip free of charge for payment processing.

The Contractor may provide other means of electronic data with no additional cost to the State or Customers (e.g., data files), when mutually agreed upon.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

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C.6.3 INVOICING SUPPORT (M)

1. The Contractor shall provide to the Customers:
 - a. Invoice Support including problem resolution and status updates within 48 hours of initial notification;
 - b. A toll-free support telephone number;
 - c. Invoice support from 8:00 a.m. to 5:00 p.m., Monday through Friday from representative with knowledge to support invoicing; and
 - d. Invoice support location(s) within the United States.
2. The Contractor shall provide to the CALNET CMO:
 - a. A designated contact for Billing and Invoicing to support the Billing and Invoicing Requirements; and,
 - b. Written notification to the CALNET CMO for any systemic variations (e.g., temporary Product Identifiers, tax errors, incorrect billing of Product Identifiers, fraudulent activity) that may affect the Customer's invoices. Notification shall be provided through email within five (5) calendar days from discovery.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.6.4 BILLING DISPUTES AND ADJUSTMENTS (M)

Should the State or any Customer dispute, in good faith, any portion of the invoiced amount due, the Customer shall notify the Contractor in writing of the nature and basis of the dispute as soon as possible. In the event the dispute is not resolved prior to the invoice due date, the Customer may deduct the disputed amount from the amount due. No late payment charges shall apply to the disputed amount until the dispute is resolved by both parties at which time any amount due will be paid by the Customer or adjustment shall be issued by the Contractor, consistent with the payment timelines set forth in this Agreement. All parties agree to use their best efforts to resolve disputes.

The Contractor shall resolve billing disputes by issuing adjustments for the full amount or provide acceptable evidence the disputed amount should not be adjusted.

In the event a dispute between the Contractor and the Customer cannot be resolved, the processes described in the eVAQ Sections 68, *Set-off Rights*, and 54, *Disputes* shall prevail.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.6.5 SYSTEMIC INVOICING ERRORS (M)

The Contractor shall provide a corrective action plan within 30 Business Days for the identified invoice discrepancy. The Contractor shall correct systemic invoicing errors within 60 calendar days of the identified invoice discrepancy unless otherwise agreed upon by the CALNET CMO. The Contractor shall provide the CALNET CMO a list of affected Customers, dates of occurrence, resolution, and timeframes to implement resolutions and preventative measures.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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C.6.6 INVOICING REFUND (M)

The Contractor shall provide a refund when a credit resides on a closed account. The Customer shall not be responsible for refund initiation and the refund is to be reflected on the BAN or as mutually agreed upon by both parties.

Refund checks shall be issued within 60 calendar days of the date of the account closure.

Refund checks shall be reflected in the Adjustments section of the invoice for tracking purposes and shall include the associated BTN/ WTN and the Customers' Service Request number when applicable

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.6.7 SERVICE TAXES, FEES, SURCHARGES, AND SURCREDITS (M)

The Bidder agrees to comply with FCC, CPUC and other jurisdictional taxes, fees, surcharges and surcredits (Fees) per eVAQ Section 41, *Service Taxes, Fees, Surcharges and Surcredits*. Any addition or changes will be implemented in accordance with this section.

Taxes, Surcharges, and Surcredits should be assessed on the Contract price (Catalog A pricing) excluding the State Associated Administrative Fee (SAAF). SAAF, taxes, and surcharges that are remitted to the government and not retained by the vendor are excluded from the vendor's gross revenues. Therefore, **no taxes may be assessed on the SAAF.**

The Contractor shall respond to the CALNET CMO within 15 calendar days from original contact date in regard to inquiries associated with Service Taxes, Fees, Surcharges and Surcredits.

The Contractor shall provide the CALNET CMO with valid E911 and Federal Excise (if applicable) exemption certificate(s) for the CALNET CMO to complete on behalf of the State within 30 calendar days of Contract Award.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.7 CUSTOMER SERVICES

C.7.1 CUSTOMER SERVICE REPRESENTATIVE (M)

The Contractor shall provide the Customer Service Representatives (CSRs) who shall be available for activating and terminating services, making changes to accounts, answering questions and assisting in problem resolution. The CSRs must be knowledgeable of CALNET Contract Requirements.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.7.2 CUSTOMER SUPPORT AVAILABILITY (M)

This Requirement applies to Subcategory 19.1 only.

The Customer service support shall be available during regular business hours (Monday- Friday 8:00 a.m. – 4:59 p.m.). The Customer services must respond to any Customer service request within four (4) hours of notice.

The Contractor shall provide the CALNET CMO and the Customers with a toll- free number for

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the Customers to report service issues.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.7.3 ESCALATION PROCESS

C.7.3.1 CALNET CMO Escalation Process (M)

Within 60 calendar days of execution of this Agreement, the Contractor shall provide an Escalation Process to be used by the CALNET CMO for this Contract. The CALNET CMO reserves the right to require changes to the Escalation Process prior to approval. The CALNET CMO Escalation Process shall:

1. Include a detailed escalation hierarchy within the Contractor's organization;
2. Include the Contractor's contact information of the individual(s) with increasing responsibility who will be available to resolve Contract and service issues 24x7x365 as they are escalated within the Contractor's organization. The Contractor shall provide three (3) levels of escalation (at least one (1) level higher than the Customer escalation contacts). Contact information shall include title/responsibility, office number, cell number and email address;
3. Remain current and provided to the CALNET CMO upon request, throughout the Contract Term; and
4. Include major milestones, roles and responsibilities, Deliverables, and commitment dates as negotiated between the CALNET CMO and the Contractor.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.7.3.2 Customer Escalation Process (M)

Within 90 calendar days of execution of this Agreement, the Contractor shall provide an Escalation Process to be used by the Customer and be posted on the Contractor's User Portal. The Customer Escalation Process shall:

1. Include a detailed escalation hierarchy within the Contractor's organization;
2. Include the Contractor contact information of the individuals with increasing responsibility who will be available to resolve issues 24x7x365 as they are escalated within the Contractor's organization. The Contractor shall provide at least three (3) levels. Contact information shall include title/responsibility, office number, cell number, and email address;
3. Remain current throughout the Contract Term; and,
4. Include major milestones, roles and responsibilities, Deliverables, and commitment dates as negotiated between CALNET CMO and the

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Contractor.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.7.4 CONTRACTOR'S CALNET PUBLIC WEBSITE (M)

The Contractor may provide a CALNET Public Website. The Contractor's CALNET Public Website shall contain only information related to CALNET services awarded to the Contractor. If the Contractor elects to provide a CALNET Public Website the CALNET CMO reserves the right to review and require modification of website content that contains any reference to "CALNET".

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.7.5 CUSTOMER REPORTS

C.7.5.1 ZERO USAGE REPORT (M)

The Contractor shall provide a Zero Usage Report to the Customer on a quarterly basis. The report shall include a high-level summary of End-User lines that show no usage (zero minutes, zero texts, and zero data) for three (3) consecutive months.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.7.5.2 ADDITIONAL REPORTS (M)

The Contractor shall provide industry standard reports to the Customers upon request.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.7.6 CONTRACTOR'S PORTAL (M)

Within 120 calendar days of Contract Award, the Contractor shall provide and support a secure web-based Cellular Voice and Data Services portal for the Customers. The Contractor's portal shall provide:

1. Access to the following:
 - a. Order System;
 - b. Billing and Invoicing application; and,
 - c. Web Based Catalog.
2. 24x7x365 availability, exclusive of maintenance windows;
3. Order acknowledgement;
4. Shipment confirmation;
5. Unfilled orders;
6. Account change/termination acknowledgement; and,
7. Activation capability for In-Hand devices.

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Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.7.7 FRAUD MONITORING & PREVENTION (M)

The Contractor shall perform fraud detection, monitoring and prevention services that are consistent with industry common “best” practices on a 24x7x365 basis to reduce the State’s vulnerability to fraudulent activities.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

C.8 STATE ASSOCIATED ADMINISTRATIVE FEE (SAAF) (M)

The CALNET CMO will determine the methods and amount of the State Associated Administrative Fee (SAAF). Refer to eVAQ, Section 70, *Administrative Fee*, for additional Requirements.

1. Items contained in this Contract to include SAAF will be identified by the CALNET CMO. The CALNET CMO will provide SAAF instructions within 30 calendar days of Contract Award, which will include the SAAF rate, services to which it applies and instructions for EFT payments.
2. The SAAF rate may change during the Contract Term as determined by the CALNET CMO.
3. The CALNET CMO will provide the Contractor with notice of any changes to the SAAF rate at least 60 calendar days prior to the effective date of the new SAAF rate.

The Contractor shall, in accordance with the Contract, bill and collect the SAAF from the Customers on a monthly basis throughout the life of the Contract.

1. The Contractor shall only assess and remit the SAAF, as determined by the CALNET CMO, for CALNET services obtained by Customers pursuant to the Contract.
2. The Contractor shall apply the SAAF as defined in section C.6, *Billing and Invoicing*.
3. The Contractor shall calculate the SAAF from the CALNET Catalog A pricing only.
4. SAAF shall not be calculated on or applied to any taxes, fees, surcharges, and surcredits.
5. The Contractor shall not apply any taxes, fees, surcharges, and surcredits to the SAAF.
6. The Contractor shall not apply SAAF to non-CALNET products or services.
7. The Contractor shall remit a single monthly Electronic Fund Transfer (EFT) as payment to the California Department of Technology for the SAAF billed to the Customers.
8. The Contractor shall remit the total SAAF collected for each month to the California Department of Technology no later than 60 calendar days after the billing cycle.
9. The Contractor shall provide a SAAF notification of remittance to the CALNET CMO via email or other electronic means as directed by the CALNET CMO. Notification shall include the following:
 - a. Contract Number;
 - b. Subcategory;
 - c. Contractor Name;
 - d. Date of remittance;

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- e. Amount of SAAF;
 - f. Service Month;
 - g. Total expenditures; and,
 - h. Total Amount of SAAF.
10. The Contractor shall document and report adjustments to SAAF monies as an Adjustment on subsequent reports including those identified in Section C.4, *Cellular Contract Data Requirements*.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.9 INDIVIDUAL PRICING REDUCTIONS (IPR)

C.9.1 IPR GENERAL PROVISIONS (M)

The Contractor may enter into price negotiations with the Customers or the CALNET CMO. These price negotiations allow the Contractor to reduce prices with a Customer for one (1) or more services by location(s). The Contractor may also enter into an Individual Price Reduction (IPR) with the CALNET CMO, on behalf of CALNET Customers, which shall establish lower CALNET rates based upon, but not limited to: a) geographic area or location(s); b) for one (1) or more Customers; and/or c) by service quantity thresholds.

The Contractor shall apply the following general provisions to both Standard and Duration IPRs:

1. The Contractor shall submit to the CALNET CMO an electronic copy of the signed IPR Agreement (IPRA) (Appendix B, *IPRA*) document consisting of an analysis of current Contract pricing and proposed IPR pricing within five (5) business days of Customer signature;
2. The Contractor shall complete an Appendix B, Individual Price Reduction Agreement when offering Customers pricing below the CALNET catalog rates;
3. An IPRA must be signed by the Contractor and Customer. The IPRA becomes effective on the date that it is signed by both parties, unless otherwise noted for a future date in the (IPRA) document;
4. All Contract requirements, terms and conditions, including Service Level Agreements, will remain unchanged. The Contractor shall not include additional requirements or terms and conditions within the IPRA;
5. No additional service taxes, fees, surcharges or surcredits will be allowed except as described in Section C.6.7, *Service Taxes, Fees, Surcharges, and Surcredits*, and the eVAQ, Section 41, *Service Taxes, Fees, Surcharges, and Surcredits*;
6. Once a Standard or Duration IPRA is approved by the Contractor and Customer, the Contractor shall not cancel or increase the reduced pricing during the Contract Term for service(s) listed, in the IPRA;
7. All approved IPRA's shall remain in effect when options to extend the Contract are exercised by the State;
8. All IPRA's shall be subject to examination and audit pursuant to eVAQ, Section 51, *Examination and Audit*;
9. The IPRA and information regarding the approved IPR service rate(s) shall be subject to the California Public Records Act;

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10. Implementation of an approved IPRA does not require reduction of Contracted rate(s) for service(s), pursuant to eVAQ, Section 77, "*Most Favored Nation*" Status of State. However, if Contracted rate(s) are amended and reduce below the IPR rate(s) for such service(s), the reduced Contracted rate(s) shall automatically apply to the IPR, but the term commitments shall remain in place for Duration IPRs;
11. The Contractor shall obtain the CALNET CMO approval to automate the IPRA form before implementing any changes; and,
12. The CALNET CMO shall require the Contractor to correct any IPRA that do not comply with the requirements of this Contract. Corrections shall be completed within 30 calendar days of the CALNET CMO written notification.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.9.2 STANDARD IPRs (M)

The following provisions apply to Standard IPRs:

1. The Contractor shall be allowed to reduce one (1) or more contracted service prices for a Customer for the duration of the Contract;
2. Standard IPRs shall be for reduced service pricing only;
3. The Customer may cancel any or all services(s) subject to the Standard IPR without penalty: and,
4. The Standard IPR Service rate(s) shall continue in effect from the date the Standard IPRA is signed by both the Customer and Contractor, through the remainder of the duration of the Contract unless services are terminated earlier by the Customer or the CALNET CMO in accordance with the terms and conditions of the Contract.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.9.3 DURATION IPRs (M)

The following provisions apply to Duration IPRs:

1. The Contractor may offer individual price reductions that require duration commitments. Duration IPRs shall be used to reduce pricing and establish Customer duration commitments;
2. Acceptance of any solicitation or offer from the Contractor shall be at the sole discretion of the Customer;
3. The Duration IPR service rate(s) shall continue in effect from the date the Duration IPR is signed by both the Customer and Contractor, through the remainder of the Contract Term;
4. The Customer's duration commitment shall not exceed the Contract expiration; and,
5. After the Duration IPRA duration commitment has been met, the Customer can cancel services without being subject to early termination charges. In the event that a Customer elects to terminate service(s) prior to the Customer's duration

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commitment date for reasons other than (1) a Contractor default, or (2) circumstances outside such Customer’s reasonable control, such Customer shall be liable to the Contractor for an early termination of the Duration IPRA. The amount owed shall be calculated based on the following:

- a. Monthly difference in the original Contract Rate and the Duration IPR rate multiplied by the number of months the service was used under the Duration IPR;
- b. Ten percent (10%) of the original Contract Rate multiplied by the number of months used under the Duration IPR; and,
- c. Any unrecovered nonrecurring charges owed to the Contractor on the date of termination.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.10 CONVERSION (M)

Conversion includes Transition-In and Migration-Out scenarios. To the extent the Contractor deems appropriate, or as otherwise requested by the State, the Contractor shall design the Conversion Plans to use a phased-conversion strategy. The Contractor agrees to cooperate fully with the State and other Contractor(s) with planning, coordination, and implementation during all Conversion phases. The Contractor shall provide plans that will assure the State that all services will be transitioned or migrated in a timely and efficient manner.

The Contractor shall, at the Contractor’s expense, assign a designated Conversion manager that will implement Conversion Plans, provide all the Contractor’s labor resources necessary to implement the Conversion plans and perform all tasks in accordance with the approved Conversion Plan schedules. The Contractor shall minimize disruption of service and any period when the State is subject to charges from more than one (1) Contract, unless at the documented request of the Customer.

The Contractor shall not implement any Conversion Plans without the CALNET CMO’s prior approval and oversight coordination.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.10.1 TRANSITION-IN (M)

This Requirement applies to Subcategory 19.1 only.

In order to ensure uninterrupted services to the Customers who are required to use the Contracts, the Contractors shall facilitate the transition of required Customers from expiring Contracts.

Transition-In applies to Contractors who currently provide the same or significantly similar cellular voice and data services to the Customers currently using a statewide cellular services contract.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

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C.10.1.1 General Requirements (M)

This Requirement applies to Subcategory 19.1 only.

The Contractor shall not charge any Non-Recurring Charges to the Customers for Transition-In. All service activations and SIM cards shall be at no cost to the Customers.

The Contractor shall provide the Customer the option to maintain their existing cellular device(s) and/or phone number(s) when moving from the Contractor's existing contract to the CALNET Cellular Voice and Data Services Contract.

The Contractor shall assist the Customers as necessary to accomplish a transition to the IFB C4CVD18 Contract.

The Contractor shall coordinate and communicate with the CALNET CMO and Customers throughout all phases of the Transition-In.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.10.1.2 Transition-In Plan Requirements (M)

This Requirement applies to Subcategory 19.1 only.

The Contractors with transitioning services shall submit a Transition- In Plan to the CALNET CMO within 30 days of Contract Award explaining how the Contractor intends to transition the Contractor's existing State customers with cellular voice and data services to IFB C4CVD18.

The CALNET CMO reserves the right to modify the Transition-In Plan when it is deemed in the best interest or benefit of the State or authorized Customers.

The Contractor's Transition-In Plan shall include the following information and describe in detail:

1. Major milestones, roles and responsibilities, Deliverables, and commitment dates;
2. How the Contractor will work with the Customers to minimize End- User impact or service interruption during Transition;
3. Steps the Contractor will take if an unscheduled service interruption occurs during the Transition of services;
4. Proposed Transition schedule that ensures timely Transition of all contracted services and invoicing;
5. The process for coordinating and communicating the Transition- In Plan with the CALNET CMO and Customers throughout all phases of the transition;
6. Transition tasks dependent on the State and/or Customer data or resources;
7. Industry standard project management methodology will be used

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throughout the Transition process; and,

A list of the Customers to be transitioned to Subcategory 19.1, Cellular Business Services that shall specify the quantity of services to be transitioned by service type.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.10.1.3 Transition-In Status Report (M)

This Requirement applies to Subcategory 19.1 only.

Upon commencement of the Transition-In Plan, the Contractor shall provide the CALNET CMO a Transition-In Status Report that includes all the Customers to be transitioned. The delivery intervals of this report shall be mutually agreed upon by CALNET CMO and the Contractor.

The Contractor shall provide Transition-In Status Reports in Microsoft Excel or as text files as directed by the CALNET CMO.

*Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____
N/A _____ (Respond N/A if NOT bidding Subcategory 19.1)*

C.10.2 MIGRATION-OUT

C.10.2.1 General Requirements (M)

Prior to expiration of this Contract, the Contractor shall comply with the eVAQ, Section 88, *Disentanglement (Migration-Out)*, and the following SOW Business Requirements. There shall be no additional cost to the Customers for Migration-Out.

The Contractor shall provide the Customer the option to maintain their existing voice phone number when moving to a new contract.

The Contractor shall coordinate and communicate with the CALNET CMO and Customers throughout all phases of the Migration-Out.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.10.2.2 Migration-Out Plan (M)

The Contractor shall provide the CALNET CMO a Migration-Out Plan within 30 calendar days of the CALNET CMO request. The Contractor's Migration-Out Plan shall include how the Contractor will move IFB C4CVD18 CALNET Cellular Voice and Data Services off the Contract with sufficient detail for the State's review and approval.

The State reserves the right to modify the Migration-Out Plan where it is deemed in the best interest or benefit of the State or authorized Customers.

The Contractor's Migration-Out Plan shall include and describe in detail:

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1. How migration-out will be accomplished in the least disruptive way to the Customers and End-Users;
2. The Contractor's commitment to continue to provide services and Contract resources under the existing terms and conditions of the Contract during Migration-Out that includes any restrictions and/or limitations;
3. The Customer impact (e.g., business needs, complexity of service, services impacted by special programs, etc.);
4. Strategy for migration of the Contractor services to new Contract services;
5. Identification of tasks dependent upon the State's data or resources;
6. Identification of all Customers by service type and unique Product Identifier;
7. Plan for transparent Migration-Out of services to support the continued billing, collection, and remittance of SAAF for services billed under the CALNET Cellular Voice and Data Services Contract; and,
8. Use of industry-accepted project management methodology throughout the Migration-Out process.

The Contractor shall not deem Migration-Out complete until the Customer services have been transitioned, migrated or discontinued and the Contractor has billed the Customers their final invoices and resolved all disputed charges.

The Contractor shall implement the Migration-Out Plan and perform all tasks identified in the Migration-Out Plan in a timely manner to mitigate disruption in CALNET Cellular Voice and Data Service from the Contractor to the State or the Customer. The Contractor shall participate in meetings with the State, Customers, and alternate service provider(s) as reasonably required by the State in planning for the Migration-Out.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

C.10.2.3 Migration-Out Status Report (M)

Upon commencement of the Migration-Out Plan, the Contractor shall provide the CALNET CMO a weekly Migration-Out Status Report which shall begin 60 calendar days prior to the physical or administrative migration of the first Customer. The report shall include all Customers to be migrated.

After each individual service migration is completed and the migration status and the CALNET billing account status both achieve 100% completion on the Migration-Out Status Report for two (2) consecutive weeks, the service line item may be deleted from the status report.

The Contractor shall provide the CALNET CMO with Migration-Out Status Reports in Microsoft Excel or as text files, as directed by the CALNET CMO. All final report formats shall be approved by the CALNET CMO and no changes shall be made to the data fields, format or headings without prior written consent of the CALNET CMO.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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FIRST INVITATION FOR BID IFB C4CVD18
FOR CATEGORY 19
CALNET CELLULAR VOICE AND DATA SERVICES

SUBCATEGORY 19.1 CELLULAR BUSINESS SERVICES SUBCATEGORY 19.2 FIRST RESPONDERS
CELLULAR SERVICES

STATEMENT OF WORK SUPPLEMENTAL BUSINESS REQUIREMENTS

February 20, 2019

Addendum 6

Issued by:

STATE OF CALIFORNIA

California Department of Technology

Statewide Technology Procurement PO Box 1810

Rancho Cordova, CA 95741

Disclaimer: The original PDF version and any subsequent addendums of the IFB released by the Procurement Official of this Bid remain the official version. In the event of any inconsistency between the Bidder's versions, articles, attachments, specifications or provisions which constitute the Contract, the official State version of the IFB in its entirety shall take precedence.

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SUBCATEGORY 19.2 SUPPLEMENTAL SOW BUSINESS REQUIREMENTS

S.1 OVERVIEW (M)

This Section of IFB C4CVD18 provides the State's solicitation for the Supplemental SOW Business Requirements associated with the SOW Technical Requirements described in Subcategory 19.2, First Responder Cellular Services.

The Requirements provided in this Supplemental SOW Business Requirements are in addition to the Requirements provided in the SOW Business Requirements for Bidders responding to Subcategory 19.2. Only Bidders responding to Subcategory 19.2 are required to respond to these Supplemental SOW Business Requirements.

S.1.1 BIDDER RESPONSE REQUIREMENTS (M)

Throughout this IFB C4CVD18, the Bidder is required to acknowledge acceptance of the Requirements described herein by responding to one (1) of the following:

1. Example A (for Requirements that require confirmation that the Bidder understands and accepts the Requirement):

Bidder understands the Requirement and shall meet or exceed it? Yes_No

Or,

2. Example B (for Requirements that require a Bidder's description):

Bidder understands the Requirements in the Section above and shall meet or exceed them? Yes___No_____

S.1.2 DESIGNATION OF REQUIREMENTS (M)

All Supplemental SOW Business Requirements specified in this Section are Mandatory and must be responded to as identified in this IFB C4CVD18, Part 1, Section 3.3.2.1, *SOW Mandatory Business Requirements* and Section 3.3.2.2, *SOW Technical Requirements* by the Bidder. The Customers will have the option whether or not to order services or features included in the Contract.

Costs associated with these Supplemental SOW Business Requirements shall be included in the prices provided by the Bidder for the individual items included in the Cost Worksheets. Items not listed in the Cost Worksheets will not be billable by the Contractor.

S.1.3 FIRST RESPONDER PROGRAM MANAGER

The Contractor shall provide a Program Manager (PM) to Cal OES as a primary point of contact that will ensure the Contractor performs technical responsibilities and other contractual compliance commitments pertaining to the functionality or operations of the services. The Contractor must notify Cal OES when a change to the Program Manager is made within five (5) calendar days of change.

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To comply with Contract Requirements, PM responsibilities shall include:

1. Ensuring the Contractor responds to Cal OES' requests and/or directions regarding Contract issues;
2. Responding through written communication within five (5) calendar days to Cal OES' written requests;
3. Acting as a point of escalation for all technical and operational issues;
4. Attending scheduled Cal OES meetings either in person or remotely in order to address all technical and operational issues. The Contractor's remote attendance shall be at Cal OES' discretion;
5. Ensuring the Contractor provides Cal OES with written notice of regulatory changes that impact the Provisioning of Contract services; and,

Upon Cal OES written requests, Contractor shall provide Contract-required and/or supplemental information within ten (10) calendar days.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.4 EMERGENCY ORDERS

In the event of an emergency (as defined in Public Contract Code Section 1102), the Contractor shall accept all orders from authorized PSEs during the emergency event.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.5 CUSTOMER VERIFICATION (M)

All Customers must be a qualified PSE as approved by Cal OES. It is the Contractor's responsibility to authenticate the PSE eligibility to utilize this Contract, and the Contractor shall restrict use solely to authorized users.

The Contractor shall verify the Customer's authority to order services by verifying the information contained in the CALNET Application Management Systems (CAMS) for each Service Request for:

1. State PSE Customers - identified as a Chief Agency Telecommunications Representative (CATR) or an Agency Telecommunications Representative (ATR); or,
2. Non-State PSE Customers - identified by a fully executed Authorization to Order (ATO); (IFB C4CVD18 Appendix D, Authorization to Order – Subcategory 19.2);

Or,

The Contractor shall verify the Customer's authority to order services by verifying the information with Cal OES for other users eligible to use this Contract not listed above in this Section.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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S.1.6 LIABILITY FOR NON-AUTHORIZED PURCHASES (M)

The Contractor shall assume liability for costs incurred as a result of accepting an order from an unauthorized Customer.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.7 EMERGENCY ORDER RECEIPT ACKNOWLEDGEMENT

The Contractor shall provide the Customer with an order acknowledgement within four (4) hours of receipt of PSE Service Request.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.8 OUT OF STOCK NOTIFICATION - NON-EMERGENCY

The Contractor shall notify the PSE Customer if an item is out of stock within 24 hours after PSE Customer order is received.

The Contractor shall offer an equivalent substitute, and the Customer shall have the option of accepting or cancelling the item from the order. If the Customer opts for substitution, the Contractor must provide the Equipment to the Customer within the same delivery timeframes of the original order and at no additional cost.

Under no circumstance is the Contractor to make unauthorized substitutions.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.9 UNFILLED ORDERS - NON-EMERGENCY

The Contractor shall inform the Customer in writing of the available date of unfilled and partial shipment orders within 24 hours of order acknowledgement. The PSE may accept the partial shipment if the delivery of the remaining goods are assured by the Contractor. Unfilled orders and partial shipments shall be indicated on the

S.1.10 SERVICE ACTIVATION NON-EMERGENCY

S.1.10.1 New Customer – New Equipment

The Contractor shall ship Equipment inactive and ready for activation within five (5) Business Days of receipt of PSE Service Request (delivery timeframe determined by the PSE Customer).

Activations that include number portability shall be completed at time of Customer request.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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S.1.10.2 Existing Customer - Replacement/Upgrade Equipment

For existing Subscribers, the Contractor shall ship replacement Equipment inactive, unless specified otherwise on the purchase document within five (5) Business Days, of receipt of PSE Service Request (delivery timeframe determined by the PSE Customer). The Contractor shall comply with Customer requests for an activation period for new Equipment.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.11 SERVICE ACTIVATION - EMERGENCY

Upon Contract Award, the Contractor shall describe the process that is required to activate service for emergency purposes. In the event of an emergency as defined in Public Contract Code Section 1102, the Contractor must provide the ability to activate In-Hand Equipment with service within four (4) hours after request from an authorized PSE.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.12 DELIVERY TIMEFRAME - NON-EMERGENCY

The Contractor must complete delivery of in-stock products within the timeframe specified by the authorized PSE Customer at time of order, or within a maximum of three (3) Business Days.

For out of stock item refer to Section S.1.8, *Out of Stock Notification - Non-Emergency*.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.13 FREIGHT- DAMAGED OR DEFECTIVE ITEMS - NON-EMERGENCY

The Contractor shall provide applicable credit and/or replacement for freight-damaged or defective items and replace the items within 24 hours after notification by the Customer. The Contractor will be responsible for the credit and or replacement of any freight-damaged or defective products at time of delivery. The Contractor shall not require the Customer to deal directly with the manufacturer. Additionally the Contractor shall provide the Customer with a prepaid return label or prepaid self-addressed container suitable for the item's return within five (5) Business Days of the Customer notification

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.14 ITEMS SHIPPED IN ERROR

The Customer will notify the Contractor of a Contractor's error in shipment.

The Contractor must accept returns of items shipped in error and credit the Customer as applicable.

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Within 24 hours of an authorized PSE notification of error, the Contractor shall ship the correct item(s). Delivery of correct items will be at no cost to the Customer.

The Contractor shall provide the Customer with a prepaid return label or prepaid self-addressed container suitable for returning the item within 24 hours of Customer notification.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.15 MANAGED PROJECT WORK

Managed Projects shall be initiated by the Contractor in situations where Provisioning and implementation of Subcategory 19.2 services exceed the requirements for routine provisioning service intervals. Managed Projects are either large, more complex in scope, or of a unique or specific nature.

Managed Projects include any of the following conditions:

1. Customer Service Requests exceeding 250 devices;
2. Major transition, migration/consolidation; and,
3. Specific implementation of service functionality, build out, construction, or network augmentation as mutually agreed upon by the Contractor and Cal OES.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.15.1 Managed Project Work General Requirements

Upon determination that a Managed Project is required, the Contractor shall:

1. Assign a Project Manager to work and coordinate directly with the Customer or Cal OES. Cal OES may represent the State as the "Customer" for project conditions identified above in S.1.15;
2. Respond to the Customer to obtain additional preliminary information regarding the project within one (1) Business Day after receipt of the Customer service request;
3. Require the Contractor's Project Manager to meet with all stakeholders (e.g., Contractor, Customer) within five (5) Business Days of receipt of the Customer service request or notification of projects as listed above to clarify their understanding of the project scope and identify the information needed to establish due dates and a project schedule; and,
4. Provide a project "Scope of Work" to the Customer no more than ten (10) Business Days following receipt of Customer's approved service request or notification of projects as listed above. The Scope of Work shall include at a minimum:

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- a. General project summary;
- b. Definition of each project task(s);
- c. Project schedule of identified tasks or milestones with start and completion dates. Each project tasks or milestones date shall be mutually agreed upon by the Contractor and Customer. The schedule will also include a Contractor and Customer mutually agreed to completion date that indicates the end of the project;
- d. Contractual service elements (planning, applicable design, engineering, testing, termination, installation and Customer Service End-User training);
- e. Project deliverables with Contractor and Customer mutually agreed upon completion dates;
- f. Acceptance criteria or process; and,
- g. Customer required activity to prepare site for service installation.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

S.1.15.2 Managed Project Minimum Reporting Requirements

1. Contractor shall develop, maintain, and update all project documents, and distribute to the Customer.
2. Contractor's Project Manager shall provide the Customer status reports that are updated at intervals agreed upon between the Customer and the Contractor. The status reports shall include at a minimum:
 - a. Project Name;
 - b. Status of major milestones; and,
 - c. An updated project schedule that clearly depicts progress to date.

Bidder understands the Requirement and shall meet or exceed it? Yes_____No_____

S.1.16 CONTRACT PROGRAM MANAGEMENT PERFORMANCE

The following Subcategory 19.2 contract program management performance deficiencies and charges shall be applied in accordance to Business Requirements Section C.2.3, *Contract Program Management Performance*.

Table S.1.16 below describes the deficiency and charges for Contractor's performance.

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Table S.1.16, Contract Program Management Performance Deficiencies and Charges		
	Deficiency	Charges
1.	Contractor fails to perform the technical responsibilities and contractual compliance commitments defined in First Responder Program Manager (Section S.1.3)	Up to \$500 per Service Request. Charges shall occur on a single per Service Request basis and shall not incur as a per monthly charge. If a Service and/or Equipment has been identified and is in the cure process, no additional instances shall result in additional charges.
2.	Contractor fails to meet the Managed Project scheduled tasks, milestones, deliverables, or project completion dates as negotiated by the Customer (Section S.1.15.1 item 4).	Up to \$5,000 per missed completion date and \$500 per day thereafter until the Contractor is compliant with the mutually agreed to completion date.
3.	Contractor sells services or equipment to an entity not authorized by the State. (Section S.1.5 Customer Verification). This performance deficiency will not apply to eligible PSEs procuring Subcategory 19.2 services and equipment in response to an emergency event (as defined in Public Contract Code Section 1102) prior to completing all authorizing documents (Appendix D, Authorization to Order for Subcategory 19.2).	Up to \$500 per Service Request. Charges shall occur on a single per Service Request basis and shall not incur as a per monthly charge.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.17 CUSTOMER SUPPORT AVAILABILITY

Customer support shall be available 24x7x365 for PSE and their Authorized Users. Support staff must respond to any Customer service request within four (4) hours of notice.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.18 TROUBLE TICKET REPORTING PROCESS

Within 30 calendar days of Contract Award, the Contractor shall provide CALNET CMO with a process describing how the Customer reports service issues and opens trouble tickets for the services provided by the Contractor. If the Contractor provides

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an online trouble ticket reporting tool then details should be included in the process.
The process shall include:

1. How the Customer reports an issue and opens a trouble ticket;
2. How the Customer shall inquire about status of service issues;
3. Toll-free number for Customers to report issues 24x7x365, except for established maintenance windows; and,
4. How the Contractor will provide each Customer department access to the complete trouble ticket data for 12 months after the trouble ticket has been closed. When requested by the Customer or CALNET CMO, the Contractor has up to ten (10) days to provide trouble ticket data to requestor. Data shall be provided as a report unless the Customer requests a different format.

The Contractor shall be responsible for partitioning all CALNET service issues by Customer. The Customers shall have access only to their department's trouble tickets. The level of access shall be determined by the Customer department management.

The Contractor shall provide CALNET CMO access to view all Customer trouble tickets.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.19 SERVICE LEVEL AGREEMENT (SLA) REPORTS

The Contractor shall provide CALNET CMO with data necessary to perform SLA compliance oversight in the form of SLA reports. The Contractor shall provide reports and address the SLA reports issues in accordance with the Service Level Agreements detailed in the SOW Technical Requirements of this IFB.

The Contractor shall provide an electronic copy of SLA Reports in Microsoft Excel or as text files, as directed by CALNET CMO, on a quarterly basis. The CALNET CMO shall approve all final report formats and no changes shall be made to the data fields, format or headings without prior written consent of CALNET CMO. The data fields listed in Section S.1.20, *SLA Credit Report Fields* shall follow the format and definitions as specified below. The Contractor shall make SLA Report data 100% accessible to CALNET CMO for a minimum of one (1) year.

The Contractor shall provide network statistics or other applicable data to be used by Cal OES and CALNET CMO to validate catastrophic outage SLA compliance, upon CALNET CMO request.

The SLA Credit Report shall include all credits for Subcategory 19.2 for failure to meet the committed objective for applicable SLA.

The report shall follow detailed format and file specifications as identified below.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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S.1.20 SLA CREDIT REPORT FIELDS

Table S.1.20 SLA Credit Report Fields				
Field Order	Data Field Name	Pop	Max Field Length	Data Type and Format
1	Reporting Period	R	21	Text Ex: 04/01/2018 - 04/30/2018
2	Contractor ID	R	10	Text Varies, 10 char max
3	SR Number	A	100	Varies, 100 char max
4	Service ID	R	100	Text Varies, 100 char max
5	WTN	R	10	Telephone Number (XXX) XXX-XXXX
6	Customer Code	R	6	Numeric <XXXXXX> Where <XXXXXX> is a Number and leading zeros are not required
7	Customer Name	R	250	Text Varies, 250 char max
8	SLA	R	100	Text Varies, 100 char max
9	Total SLA Credits	R	20, 2	Numeric (M, D) Where <M> is the maximum number of digits (20) And <D> is the maximum number of digits to the right of the decimal point (2).

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

S.1.21 SLA INVOICE ADJUSTMENTS

The Contractor shall post and identify Adjustments on invoices (i.e. credits, debits, or SLAs). Provide applicable cross-referencing information and/or Product Identifier to correct previous month(s) billing.

Bidder understands the Requirement and shall meet or exceed it? Yes _____ No _____

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GENERAL PROVISIONS - CALNET

IFB C4CVD18 - Appendix A-1 FOR

CATEGORY 19

CALNET CELLULAR VOICE AND DATA SERVICES

SUBCATEGORY 19.1 CELLULAR VOICE AND DATA SERVICES

SUBCATEGORY 19.2 FIRST RESPONDERS CELLULAR SERVICES

Addendum 5

Revised January 3, 2019

Issued By:

STATE OF CALIFORNIA

California Department of Technology Statewide Technology Procurement
P.O. BOX 1910 RANCHO CORDOVA, CA 95741

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1. DEFINITIONS

Unless otherwise specified in the Statement of Work Appendix A, Glossary, the following terms shall be given the meaning shown below.

- a) "**Acceptance Date**" means the date specified in the Statement of Work by which the State must have the site prepared and available for Software Services or Equipment delivery and installation.
- b) "**Acceptance Tests**" means those tests performed during the Performance Period which are intended to determine compliance and reliability of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
- c) "**Application Program**" means a computer program intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
- d) "**Buyer**" means the State's authorized contracting official.
- e) "**Commercial Software**" means Software developed or regularly used that:
 - (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
- f) "**Contract**" means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
- g) "**Contractor**" means the business entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
- h) "**Custom Software**" means Software that does not meet the definition of Commercial Software.
- i) "**Deliverables**" means Equipment (including Cellular Equipment) Services, Software, Information Technology, Telecommunications, Hardware, Documentation and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of Services.
- j) "**Documentation**" means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.

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- k) **"Equipment"** is an all-inclusive term which refers either to individual machines or to a complete data processing system including its Hardware and Operating Software (if any), and Cellular Equipment.
- l) **"Equipment Failure"** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.
- m) **"Goods"** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and Telecommunications Equipment).
- n) **"Hardware"** usually refers to computer Equipment and is contrasted with Software. See also equipment.
- o) **"Installation Date"** means the date specified in the Statement of Work by which the Contractor must have the installed the Software or Equipment ready (certified) for use by the State.
- p) **"Information Technology"** includes, but is not limited to, all electronic technology systems and Services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, Telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce and all related interactions between people and Machines.
- q) **"Maintenance"** includes: (i) remedial maintenance performed by the Contractor or manufacturer as a result of Services, Equipment or Software failure, and which is performed as required, i.e. on an unscheduled basis; or (ii) maintenance performed on a scheduled basis by the Contractor or manufacturer and is designed to keep the Equipment and/or Software in proper operating condition.
- r) **"Manufacturing Materials"** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
- s) **"Operating Software"** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- t) **"Operational Use Time"** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- u) **"Performance Testing Period"** means a period of time during which the State, by appropriate tests and production runs, evaluates the performance of newly installed equipment and software prior to its acceptance by the State.
- v) **"Period of Maintenance Coverage"** means the period of time, as selected by the State, during which

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maintenance Services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for Services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.

w) "**Principal Period of Maintenance**" means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.

x) "**Services**" means any and all Services, including cellular Services required to be performed by the Contractor pursuant to Contract.

y) "**Software**" means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including operating software, Programming Aids, Application Programs, and Program Products.

z) "**Software Failure**" means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.

aa) "**State**" means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.

bb) "**Statement of Work**" or ("SOW") means a document provided by the State which defines the timeline, and specifies the objectives, Services, Deliverables and tasks that the Contractor is expected to provide or perform, the responsibilities and expectations, indicating the type, level and quality of Service that is expected, all of which form a contractual obligation upon the Contractor.

cc) "**System**" means the complete collection of Hardware, Software and Services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.

dd) "**Telecommunications**" means to include all Hardware, Software and Service components involved in the secure, efficient and reliable delivery of analog and digital data streams to and/or from government 'end systems'. Examples of the components that comprise a Telecommunications System are communications links, routers, switches, multiplexers, transmitters, repeaters, and firewalls. The end systems which are interconnected via a telecommunications system include discrete hardware and software elements that accept analog or digital data streams for storage, processing or conversion to an end user. Examples of end systems are servers, telephones, video displays, and handheld computing devices.

ee) "**Telecommunications Service**" means the providing, allowing, facilitating, or generating of any form of Telecommunication through the use of a Telecommunications device over a Telecommunications system.

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ff) **"Telecommunications System"** means systems, Services or components that:

- i. Do not create data except for use by the Telecommunications system or systems used to monitor or manage the Telecommunications system.
- ii. Do not store data except transiently for purposes related to network routing, performance optimization or error recovery.
- iii. Do not delete or modify data except for purposes related to the reliability, efficiency and security of the Telecommunications Service.

gg) **"U.S. Intellectual Property Rights"** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. PURPOSE

These electronic Vendor Application Qualification (eVAQ) General Provisions-CALNET are part of the Contract entered into effective as of the Effective Date of the agreement between the State and Contractor.

3. CONTRACT FORMATION

hh) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with section 10290), 3 (commencing with section 12100), and 3.6 (commencing with section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.

ii) If this Contract results from a solicitation other than described in subsection a) above, Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.

jj) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

4. CONTRACT EFFECTIVE DATE

Awarded Contracts signed by the Contractor shall not become effective until signed by the Department of Technology ("Effective Date"). An awarded Contractor shall not begin implementation, i.e., selling Services or accepting the Customer orders until the CALNET Contract Management and Oversight (CALNET CMO) authorizes the Contractor in writing to do so, and naming a specific implementation start date for such activities. The CALNET CMO reserves the right to delay a Contractor's implementation of sales and Services of an awarded Contract to the extent determined by the CALNET CMO to be in the State's interest.

5. IRREVOCABLE OFFER

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From the date that Contractor executes this Contract ("Signing Date") until such time as the State executes this Contract and Statewide Technology Procurement approves the award of this Contract to Contractor, and as such process is further described herein, this Contract constitutes the irrevocable, firm offer by Contractor to provide the Services to the State for the charges in accordance herewith. This Contract shall not be binding or of any legal force or effect on the State until the authorized execution of this Contract by the Department of Technology, as provided in Section 4 (Contract Effective Date).

Notwithstanding the foregoing, from the Signing Date until the Effective Date, Contractor shall actively continue planning and working with the State to ensure the timely completion of all tasks necessary and sufficient to prepare for and achieve a smooth and seamless conversion of the Services related to the ongoing operation, support, and maintenance of the State's infrastructure related to Services hereunder that is from the State and its current third party Service-providers to Contractor. The State may exercise its option to extend by giving written notice of extension to Contractor prior to expiration of the Term. Contractor shall provide a reminder letter to the State ninety (90) calendar days prior to the end of the Term and each extension thereof if the State shall not have previously provided written notice to Contractor of its intent to extend the Contract prior to such dates.

6. COMPLETE INTEGRATION

This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior, contemporaneous, different, or additional agreements pertaining to the subject matter of the Contract.

7. SEVERABILITY/SURVIVAL CLAUSE

Contracts shall automatically incorporate by reference all of the eVAQ contract terms and conditions of the eVAQ. The eVAQ shall apply through the duration of the eVAQ awards (and beyond as specified in the Statement of Work), and shall survive the expiration of the Contractor's eVAQ when the Contractor's eVAQ terminates prior to the termination of the contracts awarded and/or extended from this Contract. If any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect.

8. INDEPENDENT CONTRACTOR

Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.

9. APPLICABLE LAW

a) This Contract shall be governed by and interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. Each party irrevocably submits to the sole and exclusive jurisdiction of the courts in Sacramento County, Sacramento California. To the extent Services in this Contract are subject

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to the jurisdiction of the California Public Utilities Commission (CPUC), the CPUC shall have jurisdiction over this Contract, and the Contract and related Services may be subject to modification from time to time as the CPUC may so order in the exercise of their lawful jurisdiction. The United Nations Convention on Contracts for the International Sale of Equipment shall not apply to this Contract.

b) Contractor, in conducting its business as required by the Contract (including the Solicitation) and agreed to in the proposal, shall comply with the Communications Act of 1934, as amended (including, but not limited to, the Telecommunications Act of 1996 and subsequent Acts), and as interpreted and applied by the applicable regulatory authorities and courts and any applicable rules, regulations and decisions of the Federal Communications Commission (FCC) and the CPUC.

10. COMPLIANCE WITH STATUTES AND REGULATIONS

- a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
- b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that:
 - (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of Technology shall have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
- e) To the extent that this Contract falls within the scope of Government Code section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought pursuant to this section.

In the event that any term or action required in this Contract requires a regulatory filing, Contractor shall make such filing and such action and/or term shall, to the extent applicable, be made effective

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pursuant to the rules of the Federal Communications Commission (FCC) and/or the California Public Utilities Commission (CPUC). To the extent applicable, Contractor shall make the appropriate FCC filing in a timely manner with the rates being effective consistent with FCC requirements. Under the CPUC, terms are effective immediately upon signature by the parties; provided, however, that, to the extent applicable, Contractor is obligated to and shall make a formal filing with the CPUC in a timely manner and shall provide the State with written notice that such filing has been made.

- f) In addition to the foregoing, Contractor shall, after execution of this Contract, make all necessary regulatory filings which shall include the rates and charges for Service and any terms and conditions that affect the rates and charges paid by any Customer.
- g) Should the filings described herein not adequately address an issue or fail to address an essential fact, Contractor's tariffs or published Service guides (or other published corporate pricing if Contractor is not required to file tariffs) (collectively the "Contractor's Published Pricing"), if applicable, shall be utilized as a basis for providing continuity of Service, and Service offerings, pending subsequent mutual agreement and modification of this Contract by the parties; provided, however, if the parties are unable to reach such mutual agreement within a reasonable period of time and good faith effort, then the State may take action pursuant to the terms and conditions of this Contract, including but not limited to terminating the affected Service(s) without penalty, or continuing Service at the Contractor's Published Pricing.

11. CONTRACTOR'S POWER AND AUTHORITY

The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.

- a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that
 - (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of Technology will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii)

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the State will reasonably cooperate in the defense and in any related settlement negotiations.

12. ASSIGNMENT

This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.

13. WAIVER OF RIGHTS

Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

14. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

- a) All regulatory filings pursuant to the terms and conditions of this Contract.
- b) The Contractor's eVAQ Application, and any attachments thereto.
- c) The eVAQ General Provisions – CALNET and any amendments thereto. In the instances provided herein where the paragraph permits modifications to the eVAQ General Provisions - CALNET through provisions in the SOW or elsewhere in the Contract, the paragraphs in the SOW or Contract shall take precedence over the replaced eVAQ General Provisions - CALNET paragraphs.
- d) The STD 213 Standard Agreement, and any amendments thereto, issued as a result of a solicitation (e.g., IFB, RFQP and RFP).
- e) Statement of Work (SOW) contained in the solicitation documentation in the following order of precedence:
 - i. The specifications and requirements contained in the solicitation documentation (e.g., the SOW, including the Business and Technical Requirements, and Appendix A, Glossary).
 - ii. The State approved Catalog A and any amendments thereto.
 - iii. The Contractor's response to meet or exceed the specifications and requirements in the solicitation as stated in their Bid or Proposal. (The parties acknowledge and

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agree that silence in the Bid or Proposal with respect to a particular solicitation specification or requirement equals consent by the Contractor.)

- f) Appendix E, Authorization to Order form for Services to local government jurisdictions.
- g) Form 20, Telecommunications Service Request or equivalent, and related ordering documents such as STD 65 and Work Authorizations.
- h) The Scope of Work (i.e. agreement between the Contractor and Customer per the Service order) as may be issued by authorized Customers, including in the following order of precedence:
 - i. The specifications and requirements contained in the Scope of Work.
 - ii. The Contractor's response to meet or exceed the specifications and requirements in the Scope of Work as stated in their offer. (The parties acknowledge and agree that silence in the offer with respect to a particular Scope of Work specification or requirement equals consent by the Contractor.)
 - iii. All other documents incorporated in the Contract by reference (e.g. End User License Agreements, Acceptable Use Policies, Service guides, product specific terms and conditions)

15. PACKING AND SHIPMENT

- a) All Equipment is to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to (i) show the number of the container and the total number of containers in the shipment, and (ii) the number of the container in which the packing sheet has been enclosed.
- b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Equipment shipped; and appropriate evidence of inspection, if required. Equipment for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the Department of Technology.

16. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES

No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- c) Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.),

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freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.

- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of Technology and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

17. DELIVERY

Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities or Services specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

18. SUBSTITUTIONS

Unless otherwise specified in the Statement of Work, substitution of Deliverables may not be tendered without five (5) days advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

19. SERVICE INTERRUPTIONS

Unless otherwise specified in the Statement of Work, the Contractor's liability for Service interruptions, if any, shall be limited to credit out of allowances provided for in the agreement or Service Level Agreement (SLA) including any applicable tariffs incorporated.

20. ENHANCEMENT OF CELLULAR SERVICE

Unless otherwise specified in the Statement of Work, and subject to regulatory provisions regarding Contractor's network licenses, the State shall obtain Contractor's prior approval and written agreement before it may install, deploy or use any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate Cellular Service.

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21. INSPECTION, ACCEPTANCE AND REJECTION

Unless otherwise specified in the Statement of Work, and subject to Section 39, Invoices and Payments: Contractor and its subcontractors shall provide and maintain a quality assurance system acceptable to the State covering Deliverables and Services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three (3) years after final payment. Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance system or other similar business practices directly related to performance of the Contract.

- a) All Deliverables may be subject to final inspection, test and acceptance by the State or its authorized representatives. Deliverables may be subject to inspection, test and acceptance at destination, notwithstanding any payment or inspection at source shall not be considered proof of acceptance by the State.
- b) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors, at no additional cost to the State, all information and data as may be reasonably required to perform their inspection.
- c) The State shall give written notice of rejection of Deliverables delivered or Services performed hereunder within thirty (30) days after receipt of such Deliverables or performance of such Services. Such notice of rejection will state the respects in which the Deliverables or Services, do not substantially conform to their specifications. If the State does not provide such notice of rejection within thirty (30) days of delivery for all purchases, such Deliverables and Services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.

22. WARRANTY

- a) Contractor warrants that the Services furnished hereunder will substantially conform to the requirements of the Contract (including without limitation, all description and specification identified in the SOW), and:
 - i. Services will be performed in accordance with the Contract;
 - ii. All customer support for Services will be performed with professional skill and care, and.
 - iii. Contractor shall apply anti-malware controls to the Services to help avoid malicious

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Software from gaining unauthorized access to State Data, including malicious Software originating from public networks. Such controls shall at all times equal or exceed controls consistent with industry standards for such data, but in no event less than the controls that Contractor applies to its own internal corporate electronic data of like character.

- b) Contractor warrants that any enabling Software that the State downloads to the Cellular Equipment to facilitate the use of the Service ("Software Products"), including any applications, provided, approved or advertised by the Contractor for use on the Contractor's network or Cellular Equipment:
- i. Will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and
 - ii. Will not infringe or violate any U.S. Intellectual Property Right.

Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.

c) Any Equipment provided by the Contractor shall be covered by the manufacturer's consumer warranty that will be passed through to the Customer. The Contractor shall provide manufacturer's warranty information (terms and conditions, provider, etc.) to the Customer with all Equipment at the time of delivery. The Contractor shall actively participate and assist the Customer in obtaining any replacement Equipment or in resolving any disputes with the Equipment manufacturer. Notwithstanding the foregoing, Contractor shall remain responsible for all other obligations under this Contract, including but not limited to Section 38 (Indemnification) and Section 50 (Patent, Copyright and Trade Secret Indemnity).

d) The duration of the warranty shall be as follows:

- iii. Services and Software: The warranty shall begin on the Service activation date and continue for the duration of the State or Customer's use of the Services or Software, including any optional Contract term.
- iv. Equipment warranty shall be for a period of one (1) year from the delivery date. This warranty shall apply to any Equipment provided as warranty replacement.

e) Unless otherwise specified in the Statement of work, the warranties provided herein shall be subject to the following limitations:

- i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.

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- ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
- iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third party, Contractor, to the extent it is legally able to do so, will pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.
- iv. Except as provided subsection (b) above, if the State, either on its own or through a third party, adds, changes, integrates or uses hardware or software to or with the Cellular Equipment ("Modifications"), then Contractor shall not be responsible for defects, malfunctions, repair, replacement or claims resulting from such Modifications.
- v. Misuse by the State.
- f) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or Services.
- g) Except as may be specifically provided in the Statement of Work, and subject to Section 52, Continuing Standards of Performance for Contractor Services, for any breach of the warranties provided in this section, the State's exclusive remedy and the Contractor's sole obligation will be limited to re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or Service; or (ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or Service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or Services of equivalent capability, function, and performance. The payment obligation in subsection (h)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section 30, Limitation of Liability.
- h) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

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23. SAFETY AND ACCIDENT PREVENTION

In performing work under this Contract on State premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

24. INSURANCE

Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificate(s) is insufficient for this purpose.

When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

25. TERMINATION FOR NON-APPROPRIATION OF FUNDS

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any Services supplied to the State under this Contract, and relieve the State of any further obligation therefor.
- b) The State agrees that if it appears likely that subsection (a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, DELIVERABLES (EXCEPT FOR COMMERCIAL SOFTWARE AND EQUIPMENT ACCEPTED PURSUANT TO SECTION 21 ABOVE) SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

26. TERMINATION FOR THE CONVENIENCE OF THE STATE

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Deputy Director, Department of Technology, Statewide Technology Procurement, or designee, determines that a termination is in the

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State's interest. The Deputy Director, Department of Technology, Statewide Technology Procurement, or designee, shall terminate by delivering to Contractor a Notice of Termination specifying the extent of termination and the effective date thereof, such date not to be earlier than thirty (30) days from the date the notice is delivered.

- b) After receipt of a Notice of Termination, and except as directed by the State, Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. Contractor shall:
 - i. Stop work as specified in the Notice of Termination (except as required by any Disentanglement/Migration-Out Services).
 - ii. Place no further subcontracts for materials, Services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - iii. Terminate all subcontracts to the extent they relate to the work terminated.
 - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
- c) After termination, Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than ninety (90) days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection c) above.
- e) Unless otherwise specified in the Statement of Work, upon the termination for convenience, the State shall have no obligation to pay the Contractor any amount other than in accordance with the terms of the this Contract the agreed upon price for Deliverables accepted by the State, adjusted for any savings on freight and other charges plus any unrecovered amortized capital costs originally identified in writing by Contractor and approved in advance by the State, calculated using Generally Accepted Accounting Principles.

27. TERMINATION FOR DEFAULT

Unless otherwise specified in the Contract:

- a) The State may, subject to the clause titled "Force Majeure" and to subsection d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if Contractor fails to:

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- i. Deliver the Deliverables or perform the Services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract;
or
 - iii. Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under subsection a) above, may be exercised if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than thirty (30) days, unless the Statement of Work calls for a different period.
 - c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire under terms and in the manner the State considers appropriate, Deliverables or Services similar to those terminated and the Contractor will be liable to the State for any excess costs for those Deliverables and Services, including without limitation costs third party vendors charge for the Deliverables, including any Equipment (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.
 - d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed, any: completed, partially- completed or accepted Deliverables or pre-paid Services, and subject to provisions of subsection e) below, related to the terminated portion of this Contract. Nothing in this subsection d) will be construed to grant the State rights to Deliverables or Services that it would not have received had this Contract been fully performed. Upon direction of the State, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
 - e) The State shall pay Contract price for completed, partially-completed or accepted Deliverables and items the State requires the Contractor to transfer under section d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and State shall attempt to agree on the amount of payment for any other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

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- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability".

28. FORCE MAJEURE

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to: a) Acts of God or of the public enemy, and b) Acts of the federal or State government in either its sovereign or contractual capacity. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

Provided however, the provisions of this Section shall not apply when contracted Deliverables or Services are subject to CALNET contracted Subcategory 19.2 First Responder Cellular Services or Public Contract Code section 1102.

29. RIGHTS AND REMEDIES OF STATE FOR DEFAULT

- a) Except as provided in Section 21 and subject to Section 22 above, in the event any Deliverables furnished or Services provided by Contractor in the performance of the Contract should fail to conform to the requirements herein, the State may reject the same, and it shall become the duty of Contractor to reclaim and remove the Deliverable promptly, including by providing the State with appropriate instructions for returning the Equipment, or to correct the performance of the Services, without expense to the State, and immediately replace or re-perform all such rejected Deliverables or Services, as applicable, with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by the State in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor, (but subject to the clause titled "Limitation of Liability").

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- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.

30. LIMITATION OF LIABILITY

- a) Except as may be otherwise approved by the Department of Technology, Chief Technology Officer, Deputy Chief Technology Officer or designee, and subject to subsection b) below, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this subsection a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or Service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the Section 10 (Compliance with Statutes and Regulations) (ii) to liability under Section 50 (Patent, Copyright, and Trade Secret Indemnity) or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages;(iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Contractor's negligence or willful misconduct; (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action, or (v) to direct costs of mitigation, remediation and/or notification obligations resulting from any data breach.
- c) Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of subsection b)(i), b)(ii), or b)(iv) above.

31. DE MINIMIS DELIVERABLE OR SERVICES REQUEST

At any time during the term, if the State determines that such Deliverables or Services requested were not provided with the required items/Services for the Deliverable or Service to perform in accordance with the intended specification and parties cannot agree as to whether such Deliverables or Services are included as part of the Deliverables and Services offered by the Contractor and the financial impact on the Contractor of satisfying such request is less than Twenty-Five Thousand Dollars (\$25,000.00) and to the extent that the cumulative and aggregate amount of all such Deliverables or Services provided does not result in a financial impact on the Contractor in excess of the Section 30(Limitation of Liability),

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during any contract year, such failure to agree shall (1) not be deemed a disagreement; (2) such request shall be deemed a request for Services; and (3) all such Services, products, or resources shall be provided to the State by the Contractor at no cost in accordance with the terms of this Contract.

32. STATEMENT OF ECONOMIC INTERESTS

As applicable, consultants can be categorized as a public official for purposes of adherence to Conflict of Interest laws and the filing of a Statement of Economic Interests (Form 700). As such, upon award and prior to beginning work, and on an annual basis, the consultant's staff and/or subcontractors (as applicable) engaged in performing the Services described in the contract are required to complete and submit a Form 700 to the State of California. To acquire an exemption from this requirement, consultant must submit a request to the Department of Technology, Statewide Technology Procurement explaining the basis for the request and the staff or subcontractor staff to be excluded on that basis. Form 700 and instructions can be accessed at the California Fair Political Practices Commission website, <http://www.fppc.ca.gov>.

33. ACCESS TO FACILITIES/FACILITIES ACCESS POLICIES

The State acknowledges that the Contractor or its employees and/or subcontractors (collectively the "Contractor Personnel") may work closely with the State to implement and perform the Services by working on the premises of participating State agencies and departments ("State Locations").

- a) The State will ensure that Contractor Personnel have access to State Locations as reasonably necessary for the contractor to provide the Services for which the contractor is responsible.
- b) Contractor Personnel will coordinate with the State as necessary to obtain access to State Locations to perform the Services, or to perform other obligations as contained herein.
- c) If, as part of a State agency or department's standard policies and procedures regarding contractors working onsite, require Contractor Personnel to execute certain documents prior to gaining access to State Locations ("Standard Access Agreements"), the state will use reasonable endeavors to:
 - i. provide a copy of or
 - ii. a URL link to such Standard Access Agreements to Contractor in advance of any Contractor Personnel accessing the State Locations, or
 - iii. copies or references to Standard Access Agreements already executed by Contractor that apply, if any, with a statement that those are still applicable to Contractor Personnel.

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34. USE AND ADVERTISING USE OF DATA

Contractor or its third-party providers are not authorized to use, sell, resell, package, or repackage or publicly display any information deemed by the State as confidential, sensitive or personal information pursuant to the eVAQ language or State data without written express approval of the State. This restriction includes key word searching or data mining of State data.

35. STATE COST RECOVERY

The State shall not use Software, data, web Services, or Documentation for a site or Service and operate the site or the Service for a profit or generate revenue through direct or indirect methods (e.g., advertising or by charging for access to the site or Service). However, the State is authorized to provide fee-based access to an application built upon Software, hardware, Services or Documentation to eligible employees, departments, agencies, local governmental entities and consultants of the State of California, through a Web site, Internet Service or otherwise, provided that the fees are established on a cost recovery basis and not for profit.

36. PRICE GUARANTEE PERIOD

The Contractor shall guarantee all pricing must be at or below market value for a substantially similar Service, suite of Services or Equipment offered under substantially similar terms and conditions during the entire Contract Term. Any adjustment or amendment to the original contract will not be effective unless a written amendment is approved by the State and the Contractor. The State will be given the immediate benefit of any decrease in the market, product set, or allowable discount. Additionally, the parties may negotiate Individual Price Reductions (IPR) as described herein and the SOW Business Requirements.

37. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY

- a) Except to the extent arising out of a State Representative's (as defined below) own negligence, Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault, negligence, or willful misconduct of Contractor.
- b) Contractor shall not be liable for damages solely arising out of or caused by an alteration or an Attachment not made or installed by Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by Contractor during the Contract.

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38. INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, to the extent resulting from the willful misconduct or negligent acts or omissions of Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, Deliverables, Services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time (but no delay or failure to so notify Contractor shall relieve it of its obligations under this Contract except to the extent that Contractor has suffered actual prejudice by such delay or failure); and
- b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that
 - (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability);
 - (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of Technology shall have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and
 - (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

39. INVOICES & PAYMENTS

Unless otherwise specified in the Contract:

a) Invoices

Any approved Service taxes, fees, surcharges, and surcredits may be separately identified on each invoice as applicable. In addition, each invoice shall be in the form specified by the State (including whether issued as a single, aggregate invoice or separate invoices for different Services or entities) and shall (i) comply with all applicable legal, regulatory and accounting requirements (ii) allow a Customer to validate volumes and charges, (ii) permit a Customer to chargeback internally, and (iii) meet the State's billing requirements in accordance with the Statement of Work. Invoices with a name other than that established in the original Contract (including approved Subcontractors or Affiliates) cannot be paid prior to execution of a Contract Amendment. The data underlying each invoice shall also be

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delivered to a Customer electronically in a form and format specified in the Statement of Work but also the format shall be compatible with all other applicable State's accounting systems as necessary.

b) Recoup Cost Clause

For purpose and clarity and avoidance of confusion under this contract, the State is granted the limited right to make products and Services contemplated herein available to a) other State of California governmental entities and b) other municipal or local governments within the state of California. The State shall be authorized to establish a fee- based access to applications, data, documentation or Services provided under this contract, provided that the fees are established on a cost recovery basis and not for profit.

c) Acceptance Payments

Acceptance procedures to initiate payments will be as set forth in the Customer's Scope of Work and/or Ordering Documents. A Customer shall be deemed to have accepted each Service either (i) upon its issuance of written notice of such acceptance or (ii) thirty (30) calendar days after the Service activation date, excluding delays due to shipping time, or acceptance testing period (collectively Acceptance), unless otherwise specified in the Scope of Work or at or before the time the Customer gives the Contractor written notice of rejection or requests additional time. Any notice of rejection will explain how the Deliverable or Service fails to substantially conform to the functional and performance specifications of the Statement of Work and the Customer's Scope of Work. The Contractor will, upon receipt of such notice, investigate the reported deficiency and exercise reasonable best efforts to remedy it promptly. The Customer, in its sole discretion, will have the option to re-perform the acceptance test. If the Contractor is unable to remedy the deficiency within thirty (30) calendar days of notice of rejection, the State shall have the option of cancelling the order that relates to such Deliverable or Service, or cancelling the Service order or accepting substitute Deliverables or Service or other remedy provided in the SOW Business Requirements. No payment will be due before Acceptance thereof, except to the extent required by progress payment terms and/or progress payment requirements in the Scope of Work, if applicable.

40. REQUIRED PAYMENT DATE

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: (a) the date of acceptance of Deliverables or performance of Services; or (b) receipt of an undisputed invoice, whichever is later.

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41. SERVICE TAXES, FEES, SURCHARGES, AND SURCREDITS

- a) The State government Customers of this Contract shall be subject to Service taxes, fees, surcharges, and surcredits that are mandated by the government of the State of California (including the CPUC), and the federal government (including the FCC), as applicable. The Non-State Customers shall be subject to Service taxes, fees, surcharges and surcredits mandated by the State and federal governments, and also as mandated by California local government jurisdictions and political subdivisions, as applicable. Mandates in effect at the time of award and as hereafter mandated may be recovered from Customers of the applicable Service.
- b) The CALNET CMO reserves the right to verify, and if necessary, challenge the Contractor and the applicable regulatory authority, the application by the Contractor of Service taxes, fees, surcharges, and surcredits referred to in subsection a) above. Should the CALNET CMO consider the application of such items to be inappropriate, the CALNET CMO and the Contractor shall meet and confer regarding the applicability of such items. If thereafter a dispute exists regarding the proper application of such items, the parties may resolve such disputes in accordance with Section 54, Disputes. Either party may seek guidance or clarification from the applicable regulatory authority regarding the appropriate application of such items. If the application of such items is deemed inappropriate by the regulatory authority, the Contractor shall cease and/or revise the application of such items and, if appropriate, issue retroactive credits to the impacted Customer(s).
- c) All charges under this Contract are exclusive of applicable federal, state and local sales, use, excise, utility, and gross receipt taxes, other similar tax-like charges and surcharges. The Contractor will provide the CALNET CMO the tax exemption certificates that comply with the requirements of the Internal Revenue Code and Regulations (i.e., see Internal Revenue Regulations section 49.4253-11 and IRS Publication 510 or their current equivalent versions). The Contractor agrees to exempt all Entities from federal excise taxes and E-9-1-1 taxes as of the date the Contractor receives a duly authorized and valid exemption certificate. The Contractor agrees, for the purpose of federal exemption, that the CALNET CMO will act as the authorized agent for this Contract in submitting exemption requests on behalf of all Entities.
- d) The State of California government Customers are exempt from Service taxes, fees, surcharges, or surcredits imposed by local government and political subdivision entities, as applicable. The Contractor shall not apply Service taxes, fees or surcharges imposed by local governments and political subdivisions to the State as applicable. The State shall not be required to submit certificates of exemption in order to claim or confirm local government and political subdivision exemptions.
- e) Contractor shall be authorized to include as a separate line item a charge for reimbursement of sales tax or use tax expense that is incurred with respect to a sale of handsets, accessories, or other tangible property to a Customer, and the Customer shall

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pay such sales tax or use tax reimbursement charge to Contractor.

42. NEWLY MANUFACTURED EQUIPMENT

Except where Equipment is provided as a warranty replacement, all Equipment furnished under this Contract shall be newly manufactured Equipment or certified as new and warranted as new by the manufacturer; used or reconditioned Equipment is prohibited, unless otherwise specified.

43. CONTRACT MODIFICATION

- a) No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- b) Any change to the Contractor's name will require a Contract amendment. The State, upon notification and receipt of legal documentation indicating the name change from the Contractor, will process the required amendment, assuming no other change has been made to the business entity.

44. CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to Contractor in order to carry out this Contract, or which become available to Contractor in carrying out this Contract, shall be protected by Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State, but in no event less than reasonable care. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to Contractor. If the methods and procedures employed by Contractor for the protection of Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available other than through a breach of Contractor's or a third party's confidentiality obligations, is already rightfully in Contractor's possession without obligation of confidentiality, is independently developed by Contractor outside the scope of this Contract and without reference to the State's confidential data or information, is rightfully obtained from third parties without an obligation of confidentiality or is required to be disclosed by subpoena or other legal process, limited to the extent required by the terms of such subpoena or other legal process.

45. NEWS RELEASES

Any news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of Technology.

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46. SOFTWARE LICENSE

Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a royalty-free, non-exclusive right to the use of Software Products in this Contract. The State may use the Software Products only in connection with the use of the Service and according to the licensing terms specified in a Statement of Work or otherwise in the Contract. Acceptance of the Software (including any third party Commercial Software/EULAs associated with Services sold under this Contract) will be governed by the terms and conditions of this Contract.

47. PROTECTION OF CONTRACTOR FURNISHED PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA

- a) The State agrees that all material appropriately marked or identified in writing as proprietary, and furnished by Contractor hereunder are provided for the State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of Contractor. The State agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any Contractor furnished media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to Contractor furnished licensed software and other proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

48. FUTURE RELEASES

Unless otherwise specifically provided in the Statement of Work, if improved versions, e.g., patches, bug fixes, updates or releases, of any Software Product are developed by the contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

49. ENCRYPTION & AUTHORIZATION KEYS

Upon initiation of Service, Contractor, where applicable, shall provide all encryption and authorization keys required by the State to operate or access the Software Products, Services or Equipment.

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50. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product, equipment or service provided hereunder. With respect to claims arising from Equipment or Software manufactured by a third party and sold by Contractor, pursuant to this Contract, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this section. The provisions of the preceding sentence apply only to third party Equipment or Software sold as a distinct unit and accepted by the State. Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this subsection will be conditional upon the following:
- i. The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii. Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that: (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of Technology will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables (including any Software or Equipment) or Cellular Service, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor, at its option and expense either (i) to procure for the State the right to continue using the Deliverables or Cellular Service (ii) to replace or modify the same so that they become non-infringing or (iii) discontinue Cellular Service to the infringing lines and refund any amounts paid by the State for such Service to the date

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when the infringement occurred. If none of these options can reasonably be taken, or if the use of such Deliverables or Service by the State shall be prevented by injunction, the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables or the use of Services acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the State has paid Contractor less any reasonable amount for use or damage.

- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i. The combination or utilization of Cellular Service furnished hereunder with Equipment, Software, or devices not provided or made available by the Contractor; or,
 - ii. The operation of Equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of Contractor or manufacturer-supplied operating software; or
 - iii. The unauthorized modification by or on behalf of the State of the Equipment or Software furnished hereunder; or
 - iv. Any illegal or unauthorized use of the Cellular Service; or
 - v. The State's continuance of an infringing activity after being notified thereof; or
 - vi. Any negligent or willful act or omission by or attributable to the State.
- d) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation, or maintenance of Software or Equipment in violation of U.S Intellectual Property laws.

51. EXAMINATION AND AUDIT

Unless otherwise specified in the Statement of Work:

- a) Without limiting any examination or audit rights, or other rights of the State set forth in the Contract, Contractor agrees that the State, or its designated representative, shall have the right, at any tier or level, to audit, review and copy any records and supporting documentation pertaining to performance of and invoicing under this Contract. Contractor agrees to maintain such records for possible audit for a minimum of four (4)

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years after final payment and five (5) years for Federal Universal Service Fund (“E-rate”) funded projects, unless a longer period of records retention is stipulated or required by law. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. The State agrees to take all reasonable steps to ensure that such information is not disclosed to third parties, subject to the California Public Records Act or other lawful process (e.g. in response to a subpoena).

For avoidance of doubt, audits may include those conducted by personnel of the State, or its designated representative, in performance of Contract oversight responsibilities in reviewing invoices, monthly fiscal management and/or other required reports, as well as the application of Service taxes, fees, surcharges and surcredits on invoices.

Subject to the Disputes clause, if an audit reveals that Contractor has overcharged the State or Customers for Service(s) during the period to which the audit relates, then Contractor shall promptly refund such overcharges to the State or Customer as appropriate, and, if the amount of the overcharge (offset by any undercharges revealed by such audit) is more than five percent (5%) of Contractor’s charges to the State or Customer for such Service(s) for such period, the reasonable cost of such audit (including any imputed costs of State for audits performed by the State itself) shall be borne by Contractor.

If any audit reveals an inadequacy or insufficiency of Contractor’s performance, including performance in connection with any security obligations of Contractor as set forth in this Contract, Contractor shall promptly develop and provide to the State, for approval, a reasonable and detailed corrective action plan and promptly thereafter implement such plan in accordance with its terms. In addition, the cost of such audit, and subsequent related audits or audit activity, shall be borne by Contractor in the event that: (i) the State specifically identifies a particular deficiency with respect to Contractor’s performance of any particular Service; and (ii) Contractor either denies or fails to cure such identified deficiency within thirty (30) calendar days. Further, Contractor agrees to include an equivalent right of the State to audit records and interview staff in any subcontract related to performance of and invoicing under this Contract.

- b) Notwithstanding anything to the contrary in this section, the State or any auditing body or its designated representative, agrees that it will not exercise the audit rights described in this section more than once per calendar year, however, any follow-up reviews or other investigations related to an audit initiated under this section may be conducted at any time and upon reasonable notice.

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- c) Where Contractor conducts an internal audit of Contractor's performance under this Contract which shows any significant failures by Contractor to meet its obligations hereunder, Contractor shall provide to the State a written summary describing in reasonable detail such findings of such internal audit. If Contractor determines at any time that it has overcharged any Customer, then Contractor shall promptly provide to the applicable Customer a credit equal to the amount of such overcharge plus interest from the date of Contractor's receipt of such overcharge at a rate which is consistent with the rate provided in the California Prompt Payment Act, Government Code section 927 et seq.
- d) Contractor agrees that (i) the State or its designees will have the right to obtain, copy and review all billing records of public or local government entities purchasing under this Contract, provided that notice of such rights is included within the Authorization to Order (ATO) Under State Contract used by non-State Agencies purchasing under the Contract; and (ii) the State may forward audit results showing call rate discrepancies to the CPUC.

52. CONTINUING STANDARDS OF PERFORMANCE FOR CONTRACTOR SERVICES

Unless otherwise specified in the Statement of Work:

a) Applicability:

Contractor agrees that subsequent to completion of the successful performance period and acceptance of the Services by the State, Contractor will comply with the availability and/or performance requirements and criteria established in this Contract throughout the full Contract Term, including any extensions. If the State determines, after at least six (6) months experience with the measurement method prescribed below, that the methods and procedures should be modified to more accurately identify material deficiencies, an appropriate Contract amendment shall be negotiated and upon agreement executed to effect such modification.

b) Causes and Effects of Contractor Service Malfunctions:

- i. The State recognizes that Equipment failures do occur, and that software is not infallible. Moreover, the State concedes that conditions external to Equipment may cause it to fail, particularly environmental conditions, that are outside the Equipment design operating parameters. Subject to Section 28 (Force Majeure), the State agrees, therefore, that unsatisfactory Contractor Service performance which is outside the control of Contractor will not be considered in a determination of the level of performance.
- ii. Subject to Section 28 (Force Majeure), in the event Contractor's Service failure or unsatisfactory performance is a result of factors external to the Contract, Contractor

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agrees to make appropriate recommendations to the State in order that such external factors may be corrected to preclude future problems of a similar nature. Within five (5) business days after such failure occurs, Contractor shall meet and confer with the State regarding appropriate next steps, which may include preparation, for the State's review, comment and approval, of a milestone-based action plan making such recommendations and corrections described in the preceding sentence.

- iii. In the event that the precise cause of a failure cannot be readily determined, both the State and Contractor shall continue to research the situation until the probable cause has been identified or until agreement is reached that the probable cause cannot be identified. Within five (5) business days after such failure occurs (or such other timeframe specified in the solicitation), Contractor shall meet and confer with the State regarding appropriate next steps, which may include preparation, for the State's review, comment and approval, of a milestone-based action plan for researching the probable cause of the failure.

c) Levels of Performance Required

Contractor shall perform the Deliverables or Services at the levels of quality, completeness, accuracy, timeliness, responsiveness and efficiency that are consistent with the accepted industry standards or Service Level Agreements applicable to the performance of such Deliverables and the Services or, if higher, the levels of the same received by the State prior to the Effective Date and as set out in applicable Service performance exhibits or the Statement of Work, agreed upon by the parties and incorporated into the Contract. Without limiting the foregoing or other obligations of Contractor, for those Deliverables, requirements, and Services for which the Statement of Work specifies a particular Service level, Contractor shall provide all Deliverables, requirements, and Services at levels at least in accordance with such Service levels.

d) Remedies for Unacceptable Levels of Performance

The remedies provided in this section shall be in addition to any remedies provided in Section 22 (Warranty). If a Contractor Deliverable, requirement, or Service does not meet the minimum level of performance as set forth in the Statement of Work, the remedy or process for correction set forth in the Statement of Work will be followed by the parties. If the specific Deliverable or Service has no remedy or process for correction set forth in the Statement of Work, State shall promptly notify Contractor in writing of such unacceptable performance and the impact on the State, and Contractor shall promptly initiate action to remedy the unsatisfactory performance. Contractor shall, at its option, take one or more of the following actions to correct the situation:

- i. Provide on-site Contractor personnel for analysis of the problem;

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- ii. Replace the faulty Equipment, Deliverable or Service;
- iii. Provide substitute Equipment, Deliverable or Service satisfactory to the State;
- iv. Modify the Equipment, Deliverable or Service; or
- v. Take any other action with which the State concurs.

If Contractor fails to correct an unacceptable level of performance with respect to any Equipment, Deliverable, or Service to the requirements of the Contract of the State during the thirty (30) calendar days following receipt of written notice from the State (or such other timeframe specified in the Contract), the State and Contractor can mutually agree to extend the time to a specified date. If Contractor fails to correct the situation to the satisfaction of the State by the end of the specified time period, then, without limiting any other remedy specified in the Contract, the State may

- (i) secure replacement Equipment, Deliverables or Services with Contractor responsible for payment of Costs to Cover, and/or
 - (ii) terminate that portion of the Contract relating to the deficient equipment, Deliverable, Requirement, or Service. The above-described remedies are not intended to constrain either party from any other action mutually agreed to by Contractor and the State as being more appropriate or to limit any of the State's other rights and remedies under this Contract, at law or in equity, including the exercise of Section 62 (Set- Off Rights).
- e) Replacement or Substitution of Equipment by Contractor

If Contractor, in an attempt to improve the level of performance, replaces or substitutes Equipment or Service that meets all of the Contract requirements, such replacement or substitution shall be at no cost to the State.

f) Review of Performance

Contractor's performance will be periodically evaluated in accordance with the Service levels for each Service delivered throughout the term of this Contract. In accordance with the California Government Code, Contractor performance evaluation will be completed within the guidelines of the State Administrative Manual, section 1283.

53. AVAILABILITY

If at any time after award of this Contract, the Contractor becomes unable to provide any part of its contracted Services, the Contractor must, within ten (10) Business Days, notify the State in writing to seek a potential resolution, and if appropriate, propose a replacement of those Services which it can no longer provide. The replacement must be at no cost to the State, and shall be materially equivalent to or exceed the proposed Service which was previously offered and accepted by the State in the Contractor's Final Bid or awarded Contract.

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The State reserves the sole right to determine if the proposed replacement is acceptable. An inability to provide a Mandatory requirement may be grounds for Contract termination in whole or in part.

54. DISPUTES

Unless otherwise specified in the Contract:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally.
- b) If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have thirty (30) days after receipt of Contractor's written demand invoking this Section 54 (Disputes) to render a written decision. If a written decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a decision adverse to the Contractor's contention.
- c) If the Contractor is not satisfied with the decision of the contracting Department Director or designee, the Contractor may appeal the decision, in writing, within fifteen (15) days of its issuance (or the expiration of the thirty (30) day period in the event no decision is rendered by the contracting department), to the Department of Technology, Office of Technology Services Deputy Director or designee, who shall have thirty (30) days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court.
- d) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, Service in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.
- e) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department of Technology Office of Technology Services Deputy Director or designee if an appeal was made. If Department of Technology Office of Technology Services Deputy Director or designee fails to render a final decision within thirty (30) days after receipt of the Contractor's appeal for a final decision, it shall be

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deemed a final decision adverse to the Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

- f) For disputes involving purchases made by the Department of Technology, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a above. The Department Director or designee shall have thirty (30) days to render a final decision. If a final decision is not rendered within thirty (30) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

55. STOP WORK

- a) The State may, at any time, by written Stop Work Order to Contractor, require Contractor to stop all, or any part, of the work called for by this Contract for a period of forty-five (45) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of forty-five (45) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i. Cancel the Stop Work Order; or
 - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, this Contract price, or both, and this Contract shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii. Contractor asserts its right to an equitable adjustment within sixty (60) days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

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- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

56. FOLLOW-ON CONTRACTS

- a) If Contractor or its Affiliates provides Technical Consulting and Direction (as defined below), Contractor and its Affiliates:
 - i. Will not be awarded a subsequent Contract to supply the Deliverables, Services, or systems, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
 - ii. Will not act as consultant to any person or entity that does receive a Contract described in subsection i) above. This prohibition will continue for one (1) year after termination of this Contract or completion of the termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means Services for which Contractor received compensation from the State and includes:
 - i. Development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - ii. Development or design or test requirements;
 - iii. Evaluation of test data;
 - iv. Direction of or evaluation of another Contractor;
 - v. Provision of formal recommendations regarding the acquisition of Telecommunication Technology products or Services; or
 - vi. Provisions of formal recommendations regarding any of the above. For purposes of this section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of Technology Services, or designee, may waive the restrictions set forth in this section by written notice to the

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Contractor if the Director determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this section will not apply: (i) to follow- on advice given by vendors of commercial off-the-shelf products, including software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or (ii) where the State has entered into a master agreement for Software or Services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.

- d) The restrictions set forth in this section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this section, even if enacted after execution of this Contract.

57. COVENANT AGAINST GRATUITIES

Contractor represents and warrants to the State that no gratuities (in the form of entertainment, gifts or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this representation and warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or equity.

58. ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Government Code sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State 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. 15) or under the Cartwright Act (Chapter 2, commencing with section 16700, or Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Equipment, material and other items, or Services by the supplier of sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State 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 State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less

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the expenses incurred in obtaining that portion of the recovery.

- c) 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
 - i. The assignee has not been injured thereby, or
 - ii. The assignee declines to file a court action for the cause of action.

59. FOUR-DIGIT DATE COMPLIANCE

Contractor represents and warrants to the State that it will provide only Four- Digit Date Compliant (as defined below) Deliverables requirements, and/or Services to the State. **“Four Digit Date Compliant”** Deliverables and Services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality or warranty obligations set forth elsewhere herein.

60. RECYCLING

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 -12209, in products, materials, Equipment, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of section 12209.

The certification shall be provided by the contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of section 12156(e), the certification required by this subsection shall specify that the cartridges so comply (Public Contract Code section 12205(b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, Equipment, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (Public Contract Code section 12203(d)).

61. CHILD SUPPORT COMPLIANCE ACT

For any Contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code section 7110, that:

- a) 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

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b) 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.

62. SET-OFF RIGHTS

Notwithstanding anything to the contrary in this Contract, and in addition to the other rights of the State and/or the applicable Customer hereunder with respect to disputing invoices or withholding amounts, the State and/or the applicable Customer, in its sole discretion, may set off against any and all amounts otherwise payable to Contractor pursuant to any of the provisions of this Contract: (i) any and all amounts claimed by the State and/or the applicable Customer in good faith to be owed by Contractor to the State and/or the applicable Customer pursuant to any of the provisions of this Contract; and (ii) any and all amounts that the State and/or the applicable Customer believes in good faith that it does not owe to Contractor pursuant to any of the provisions of this Contract. Within twenty (20) calendar days after any such set-off by the State and/or applicable Customer, the State and/or applicable Customer shall provide Contractor with a written accounting of such set-off, a written statement of the reasons therefore, and a reasonable opportunity to meet and discuss the claimed set-off. In the event Contractor does not agree with the set-off applied, Contractor or applicable Customer may contact the State to seek equitable resolution or exercise its rights under applicable law.

63. CONTRACTOR PERSONNEL

- a) When Contractor needs access to State's premises to perform the required Services under this Contract, Contractor personnel shall perform their duties during State's regular work days and normal work hours, except as may be specifically agreed to otherwise by the State and Contractor.
- b) The State reserves the right to disapprove the continuing assignment of Contractor personnel working on State premises. If the State exercises this right, and Contractor cannot immediately replace the disapproved personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected hereby.
- c) Contractor will make every effort consistent with sound business practices to honor the specific request of the State with regard to assignment of its employees; however, subject to the above paragraph and the paragraph below, Contractor reserves the sole right to determine the assignment of its employees. If a Contractor employee is unable to perform due to illness, resignation, or other factors beyond Contractor's control, Contractor will make every reasonable effort to provide suitable substitute personnel.
- d) Contractor represents that the individuals designated as Contract Contact in the Contract are, and promises that any subsequent Contract Contact shall be, experienced professionals, possessing the appropriate knowledge, skills, and expertise to perform properly their assigned duties. Contractor may transfer or terminate Contract Contact at any time in the event the needs of Contractor's business support a transfer, or the individual is eligible for a promotion

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or other positive type of employment opportunity, or the individual's personal life experience requires a transfer, or the individual's employment is terminated for "good cause" (which term, as used in this Contract, means cause for termination, including a lay-off, as determined in accordance with Contractor's employment policies, consistently applied). Contractor shall exercise every reasonable effort to notify the State prior to the transfer of Contract Contact to another position within Contractor's organization, including upon any such replacement or reassignment if the function being performed by the individual being replaced or reassigned is eliminated from the Services. If any of the Contract Contact is reassigned, becomes incapacitated, or ceases to be employed by Contractor, and therefore becomes unable to perform the functions or responsibilities assigned to such person, Contractor shall promptly replace such person with another person at least as well qualified to perform such functions and responsibilities as the person being replaced, and the State shall have the right to interview (in the presence of a Contractor representative) and provide input to Contractor concerning each such replacement.

The parties acknowledge that qualifications include a mix of experience and education and that equally qualified individuals may have different mixes thereof. Contractor shall cause its subcontractors to comply with this provision with respect to any of individuals of such subcontractors that are designated as Contract Contact.

- e) In recognition of the fact that Contractor personnel providing Deliverables, requirements, or Services under this Contract may perform similar Services from time to time for others, subject to the above paragraph, this Contract shall not prevent Contractor from performing such similar Services or restrict Contractor from using the personnel provided to the State under this Contract, providing that such use does not conflict with the performance of Services under this Contract.
- f) Contractor shall submit annually a business plan that demonstrates a commitment to providing qualified staff and resources to support authorized user, business activities and Contract management

64. CONTRACTOR BUSINESS RELATIONSHIP RESPONSIBILITY

Contractor shall fully cooperate with the State and the other Contractors as necessary to coordinate the performance of the said Services, including participation in any advisory forum established by the State and the establishment of business processes that facilitate the orderly Transition, Migration, and Transfer of Customers to other said Services and the implementation of any other ongoing provisioning support for Services.

- a) Contractor shall demonstrate how business arrangements and practices will support Contract Services.
- b) If Contractor and any Affiliate have been awarded more than one of the CALNET Contracts, and separate Affiliates will provide the Contract Services under such Contracts, Contractor shall, upon award, describe in detail how it will meet single point of contact responsibilities; identify what, if any, interaction exists between such

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Affiliates for each of the Contracts in question; and demonstrate how any competitive business goals of the individual Affiliates with respect to the Contracts in question will be resolved so as not to cause harm to the State or negatively impact the provisioning of Services to Customers. In addition, Contractor agrees to meet in good faith with the State to discuss potential efficiencies and savings that Contractor could make available to the State as a result of such circumstances.

65. PROVISIONING OF DELIVERABLES AND SERVICES

The State and Authorized Users may order Deliverables and Services under this Contract by issuing the appropriate Ordering Document form(s) in accordance with the CALNET user instructions. The Contractor will not commence provisioning Deliverables or Services for a given Customer until the Contractor receives a complete, signed, accepted, and accurate order form such as a Form 20, Telecommunications Service Request, STD 65, Purchasing Authority Purchase Order, or equivalent. The order form may be accompanied by an Authorization to Order (ATO) and/or a Work Authorization as applicable.

66. UNANTICIPATED TASKS

Unless otherwise specified in the Contract:

- a) Any Services, functions, requirements, developments, or responsibilities not specifically described in this Contract that are consistent with industry standards, an inherent, necessary or customary part of the Services or are, consistent with industry standards, required for proper performance or provision of the Services in accordance with this Contract shall be deemed part of the Services and Contractor shall provide them as part of the Services without additional charge.
- b) In the event that any other work must be performed which was wholly unanticipated and is not specified in the Statement of Work, but which in the opinion of both parties is necessary to the successful accomplishment of the general scope of work outlined for particular Deliverable(s) and/or Service(s), the procedures outlined in this Section will be employed.
- c) For each item of wholly unanticipated work not specified in the Statement of Work, a Work Authorization will be prepared.
- d) It is understood and agreed by both parties to this Contract that all of the terms and conditions of this Contract shall remain in force with the inclusion of any such Work Authorization. Such Work Authorization shall in no way constitute a Contract other than as provided pursuant to this Contract and shall not in any way amend or supersede any of the other provisions of this Contract.
- e) Each Work Authorization shall consist of a detailed statement including justification of the need for the wholly unanticipated work, a description of the work to be accomplished by

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Contractor, the job classification or approximate skill level of the personnel to be made available by Contractor, an identification of all significant material to be developed by Contractor and delivered to the State, an identification of all significant material to be delivered by the State to Contractor, an estimated time schedule for the provision of the work by Contractor, completion criteria for the work to be performed, the name or identification of Contractor personnel to be assigned, Contractor's estimated work hours per person (and/or estimated subtotal of rates and charges per Deliverable(s) and/or Service(s)) required to accomplish the work, Contractor's billing rates per work hour per person (and/or estimate rates and charges per unit for Deliverable(s) and/or Service(s)) required to accomplish the work, and Contractor's estimated total cost of the Work Authorization.

- f) All Work Authorizations must be in writing prior to beginning work and signed by Contractor and the State.
- g) The State has the right to require Contractor to stop or suspend work on any Work Authorization pursuant to the provisions of Section 55, (Stop Work), of this Contract.
- h) Personnel resources will not be expended (at a cost to the State) on task accomplishment in excess of estimated work hours required unless the procedure below is followed:
 - i. If, in the performance of the work, Contractor determines that a Work Authorization to be performed under this Contract cannot be accomplished within the estimated work hours, Contractor will immediately notify the State in writing of Contractor's estimate of the work hours which will be required to complete the Work Authorization in full. Upon receipt of such notification, the State may:
 - a. authorize Contractor to expend the estimated additional work hours in excess of the original estimate necessary to accomplish the Work Authorization (such an authorization will not be unreasonably withheld), or
 - b. terminate the Work Authorization, or
 - c. alter the scope of the Work Authorization in order to define tasks that can be accomplished within the remaining originally estimated work hours.
 - ii. The State will notify Contractor in writing of its election within seven (7) calendar days after receipt of Contractor's notification. If notice of the election is given to proceed, Contractor may expend the estimated additional work hours. The State agrees to reimburse Contractor for such additional work hours.

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67. NEED FOR CONTRACTOR SERVICES DUE TO EMERGENCY

Unless otherwise specified in the Statement of Work, an emergency is defined in **PUBLIC CONTRACT CODE SECTION 1102**: "Emergency," as used in this code, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public Services.

- a) Contractor shall make every reasonable effort to assist the State in procuring use of Contractor Services consistent with that provided under this Contract to meet emergencies. The price and Service levels for such compatible Services shall be reasonably set by Contractor and, to the extent possible, shall be no greater than the Contract rates and at Service levels substantially similar to those set forth in the Contract.
- b) The State, at its option, may accept or reject the use of emergency equipment.

68. NON-EXCLUSIVE AGREEMENT

Nothing in this Contract shall be construed as a requirements contract or interpreted as preventing the State from obtaining, consistent with State policy, any portion, component, subset or all of the Services offered under the terms and conditions of this Contract, or any other Services (analogous, similar, comparable or otherwise) from third parties, or providing the same to itself. Nor shall anything in this Contract be construed or interpreted as limiting the State's right or ability during the Term of this Contract to increase or decrease its demand for Services hereunder. To the extent the State, consistent with State policy, obtains from third parties, or provides to itself, replacement Services for any of the Services hereunder, the amount to be paid to Contractor by the State for the remaining Services will be equitably adjusted downward, to the extent necessary, to reflect the portion of the Services that Contractor will not be providing or performing, regardless of whether such Services were priced individually or as a bundle with any of the remaining Services.

69. CHARGES

Unless otherwise specified in the Statement of Work:

Contractor agrees that the State and any Customer are not subject to any minimum monthly usage charges for any Services contracted under this Contract.

- a) Contractor agrees that Services not identified in this Contract may not be provided nor charged to the State or any Customer pursuant to this Contract, but that Contractor may use the invoicing process of this Contract so as to allow for invoicing of Services not related to this Contract, provided that such items are clearly identified as not related to this Contract and Contractor otherwise complies with the requirements in the Contract related to invoicing.
- b) Contractor agrees that charges not identified in this Contract may not be assessed to the

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State or any Customer except in accordance with subsection a).

- c) Invoices for all contracted Services shall not be subject to late payment charges prior to the Contract defined due date.
- d) Contractor agrees that the charges shall comply with Section 77 (Most Favored Nation).

70. ADMINISTRATIVE FEE

Unless otherwise specified in the Contract, if applicable:

- a) Contractor agrees to pay the State an administrative reimbursement as required and established by the State. The administrative reimbursement shall be used to fund only the State activities, or the State funded State offices and activities. The State's objective is not to increase the administrative fee associated with any existing Service or establish an administrative fee associated with any new Service if when combined with Contractor's Contract rate for the Service the administrative fee raises the total price for the Service to a level that is non-competitive with similar Services available in the telecommunications industry. Notwithstanding the foregoing, in all events the State shall be entitled to an administrative fee increase equal to the Consumer Price Index (CPI) over the relevant Contract Term should an increase be required to fund the State activities or the State funded State offices and activities. The CPI is published by the U.S. Department of Labor, Bureau of Labor Statistics. For this Contract the following will be utilized: the CPI-U Index; not seasonally adjusted; US city average area, all items series adjusted annually. Until the Contract has been awarded and the Contractor rates determined, the State is unable to determine administrative fee rates that will be applied on any Service or Services. Accordingly, and on behalf of the State, Contractor will bill, collect and remit a Contract administrative fee. The administrative fee may be applied to any and all contracted Services offered under this Contract. This fee shall be determined by the State and appear separately on the Customer's invoice. The administrative fee reimbursement amount shall appear on the monthly detailed fiscal management reports referenced in this Contract to be delivered to the State.
- b) Contractor shall bill, collect and remit a check or electronic funds transfer notification based on the amount billed for this administrative fee to the State on a monthly basis at no additional cost. The administrative fee shall be paid to the State no later than the 30th of the month, for the amount billed two months preceding. Contractor shall pay a late payment fee on any such administrative fees not paid to the State when due in accordance with the Statement of Work. The fee will be based on the State costs to manage this Contract as well as perform other mandated functions and may be adjusted annually or as otherwise deemed necessary by the State, based on fiscal year projected requirements, upon reasonable notice to Contractor.

Contractor agrees to provide monthly fiscal management reports identifying Services in

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accordance with this Contract.

71. CONTRACTOR COMMITMENTS AND REPRESENTATIONS

Any written commitment by a duly authorized representative of Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill any such commitment shall render Contractor liable for performance deficiency charges or other damages due to the State as set forth herein. Such written commitments include but are not limited to:

- a) any warranty or representation expressly made by Contractor as to Deliverables, Service, equipment or software performance, total System performance, or other physical design or functioning characteristics of a Machine or software System,
- b) any warranty or representation expressly made by Contractor concerning the characteristics of the items described in (a) above, made in any publication, drawings, or specifications accompanying or referred to in the Contract, and
- c) any written notification of or affirmation or representation as to the above which is made by Contractor in or during the course of negotiations and which is incorporated into a formal amendment to the Contract.

72. SERVICE TO PUBLIC ENTITIES AND LOCAL GOVERNMENT AGENCIES

In accordance with Government Code Section 11541, Contractor agrees to provide Service to all public and local Agencies in the State pursuant to this Contract and hereby acknowledges that the State is not responsible for payment, Deliverables, requirements or services rendered these entities.

Contractor agrees that it shall have no recourse against the State for any act or omission of the local public entity, which arises from Contractor furnishing Equipment or Services pursuant to this Contract. Contractor understands and acknowledges that under this Contract the State neither promises nor guarantees any minimum amount of revenue for Contractor or minimum amount of Deliverables, requirements, or Services to be purchased.

73. AVAILABILITY OF REFRESHED TECHNOLOGY AND ADDITIONAL SERVICE ITEMS

- a) Contractor shall evolve, supplement, and enhance the Equipment and Services provided in the normal course of business and that which is in scope of the contract during the Term, both to keep pace with and utilize technological advancements and improvements in the method of delivering telecommunications related Services and the pricing thereof. Contractor also acknowledges that the telecommunications environment is critical to the State's business success, and that the State's needs and requirements with regard to the telecommunications environment may also evolve and change over time, and that the need for enhanced or modified functionality may arise. Therefore, during the Term and within Contract scope, either party may suggest enhancements or additional required Equipment or Services, modifications, cost saving items, or items that might be considered to keep pace with and/or to take advantage of

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the latest and most useful technological advancements and improvements in Contractor's performance (collectively, "Enhancements").

- b) When such Enhancements substitute, replace, modify or improve Equipment or Services already being received by the State (e.g., network backbone upgrades that generally benefit all users of the network and are not specifically requested by the State), Contractor will make such Enhancements available to the State under this Contract at no additional cost to the State.
- c) If Enhancements do not substitute, replace, modify or improve Equipment or Services already being received by the State under this Contract, but instead add to additional material functionality and features, Contractor will make such Enhancements available to the State under the existing Contract through a written proposal. Each proposal for Enhancements must provide a 1) business case that includes potential users and technical requirements, if any, and 2) competitive pricing that includes market analysis that illustrates cost benefits and cost justification. The State, in its sole discretion, shall determine whether to approve of the proposal Enhancements and its inclusion in the Contract. If the State chooses to proceed hereunder, the State and Contractor will negotiate in good faith to agree on any additional terms and conditions, if any, under which the Enhancement will be added to this Contract through the amendment process. The Contractor shall update any applicable marketing plans used in connection with the Equipment or Services hereunder.
- d) Contractor understands that the State is solely responsible for approval of proposal and agrees, absent an approved amendment from the contracts authorized State agency or/States designated authority; Enhancements must not be added to this Contract. Consistent with and without limiting anything set forth in Section 68, Non-Exclusive Agreement, nothing in this Section shall prohibit the State from pursuing or obtaining the same or similar Enhancements with or from other providers or requiring that certain Enhancements may only be obtained from certain providers.
- e) Contractor agrees that Enhancements must not be added to the contract at the request of any local government or a non-State Agency unless otherwise authorized by the State.

74. PRICING AND SERVICE REVIEW

For the purpose of maintaining competitiveness throughout the Contract Term, the Contractor agrees to a joint review of its pricing and Service functionality at the State's request, no more frequently than annually, to ensure the State and its Customers will receive cost-competitive and technologically competitive Services. The State shall notify the Contractor in writing of any pricing adjustments and Service related issues as a result of the analysis. The Contractor shall have fifteen (15) calendar days to confirm and respond to the State's request for pricing reductions or other Service related changes. The effective date for the mutually agreed rate(s) shall be fifteen (15) calendar days from written notification of the State's acceptance of the revised rate. Once the pricing amendment has been issued, the Contractor shall issue rebates or billing credits back to the effective date of the new rate(s). The Contractor agrees that requests for amendments to this Contract to reduce statewide rates may be

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submitted throughout the term.

75. SERVICE COSTS

Any Contractor's list of Service and product descriptions accepted by the State shall correlate the Service to the associated Contract rates as applicable under this Contract. All costs will include all monthly recurring and usage charges, volume discounts, and non-recurring charges as applicable. Listed pricing will include all elements necessary to configure an instance of working Service including activation, delivery, and training. Any no-cost items will be clearly identified and any Service elements without associated pricing will be considered no charge items.

76. INDIVIDUAL PRICE REDUCTIONS

The Contractor may enter into negotiations with the Customers resulting in an Individual Price Reduction (IPR). IPRs can result in a price reduction only or price reduction for a limited duration commitment. At no time will any other Contract term and condition be modified. IPRs commitments shall not exceed the Contract Term. Refer to the SOW Business Requirements, Section C.9, Individual Pricing Reductions (IPR).

77. "MOST FAVORED NATION" STATUS OF STATE

Unless otherwise specified in the Contract, the Contractor agrees to give the State and Authorized Users of this Contract "Most Favored Nation" status, in that the Contractor agrees that no other similarly situated public Customer of the Contractor or any of its Affiliates will receive rates for a substantially similar Service, or suite of Services, offered under substantially similar terms and conditions that are lower than the statewide rates provided hereunder when the volume of business from the other public Customer is substantially similar in scope and volume to the business the State delivers under this Contract. The Contractor agrees to promptly bring to the State's attention instances in which other public Customers of the Contractor or any of its Affiliates may receive lower rates for substantially similar Services. For comparison purpose, all rates used for comparison shall not include administrative fees, Service taxes, fees, surcharges, or surcredits equivalent to those of Section 70, Administrative Fee, or Section 41, Service Taxes, Fees, Surcharges, and Surcredits. If the Contractor or its Affiliates offer lower rates to any other public Customer for the same or a substantially similar Service, or suite of Services, offered under substantially similar terms and conditions, the Contractor shall adjust the Contract rates prospectively to match or beat such rates. If the Contractor offers a bundled package of Deliverables and/or Services under substantially similar terms and conditions to other public Customers at a rate lower than the rate(s) charged for such Deliverables and/or Services provided under this Contract, the State reserves the right to amend the Contract to add a similarly bundled package of Deliverables and/or Services at such lower rate. At the end of each Contract year, an executive level officer with authority to represent the Contractor shall certify in writing to the State that the Contractor has complied with this provision. If the Contractor is not in compliance with this Section, the Contractor and the State shall make adjustments and/or payment as necessary and described in Section 74 (Pricing and Service Review), as applicable. Nothing herein shall be construed to require the Contractor to offer,

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provision, or sell Services in a manner that conflict with applicable laws or regulations.

78. FEDERAL UNIVERSAL SERVICE FUND

Federal Grant programs are available to schools and libraries under the Universal Service Fund. This program, also referred to as E-rate funding, provides support to schools and libraries in accessing telecommunications Services. To the extent such programs are applicable to the Services under this Contract, as determined by the State, or required by law, Contractor agrees to:

- a) Provide Contract telecommunications Services to public entities qualified for Universal Service Fund Support;
- b) Be certified as a Universal Service Administrative Company (USAC);
- c) Meet Federal requirements for timeliness and accuracy in processing E- rate and other USAC program request and invoicing; and
- d) Ensure that the State has pre-approved the use of Contract Services by Customers otherwise qualified for the Federal Universal Service Fund.

79. EXISTING EQUIPMENT & TITLE TO EQUIPMENT

- a) The Contractor agrees to reasonably accommodate its Customers and utilize existing equipment. The Contractor's proposed Services shall reasonably accommodate the use of such existing Customer equipment.
- b) Title to equipment, accessories, and devices provided under this Contract shall not vest in the State, unless such items are purchased by the State. All devices and accessories furnished by Contractor hereunder, except those purchased by the State, shall accompany the equipment when returned to Contractor.

80. UNLAWFUL USE

Customer will not use any Service for any unlawful purpose. Without limiting any other remedy specified in this Contract, Contractor reserves the right to take any action it deems necessary to prevent unlawful use and to control fraudulent use. Such actions by Contractor may include, but are not limited to, blocking certain traffic, refusing to accept calling card, collect calling and or third number calls, or discontinuing provision of Service to the End-User or canceling the End-User's account.

81. MIGRATION

Unless otherwise specified in the Contract, Contractor shall prepare and deliver to the State, for the State's review, comment and approval, a Migration-In Plan for migrating the provision of Services pursuant to the Contract to the provision of Services pursuant to this Contract as set forth in this Contract. To the extent Contractor deems appropriate, or as otherwise requested by the State, Contractor shall design the Migration-In Plan to use a phased migration strategy.

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82. DISENTANGLEMENT (MIGRATION-OUT)

- a) Term Migration-Out shall be synonymous with Disentanglement. The Migration-Out shall begin on the earlier of the following dates, as applicable, the "Migration-Out Commencement Date": (1) as elected by the State, up to sixty (60) calendar days prior to the end of the Category or Subcategory Contract Term that the State has not elected to extend pursuant Section 4 (Contract Effective Date) or has already extended fully as permitted under this section; or (2) the date a Notice of Termination is delivered pursuant to Section 26 (Termination for the Convenience of the State) or Section 27 (Termination for Default); or (3) the State's election pursuant to Section 68, Non-Exclusive Agreement, to obtain any portion, component, subset or all of the Services offered under the terms and conditions of this Contract, or any other Services (analogous, similar, comparable or otherwise) from third parties, including other Category or Subcategory Contractors, or to provide the same to itself. The Contractor shall provide Migration-Out Services until it has completed the obligations of this Section.

The Contractor's obligation to continue to provide the affected Services shall continue until the earlier of (i) completion of a migration to a new Service provider as provided in this Section, or (ii) eighteen (18) months after the effective date of any termination or expiration. During Migration-Out, the Contractor shall continue to provide Service(s) in a manner consistent with the Contractor's provision and performance of such Service(s) during the period such Service(s) were provided to the State hereunder.

- b) Subject to the performance by the State and any subsequent provider of similar Services, the Contractor shall cooperate fully with the State and third parties and shall take all actions requested by the State or as necessary to accomplish a smooth, complete conversion of responsibility for the Services being terminated from the Contractor to the State, or to any replacement provider designated by the State (a "Migration-Out"), with no material interruption of, or adverse impact on, the State in any way, including on the Services. In the event the State elects to terminate any Service (but not all Services in the aggregate) pursuant to the terms hereof, the Contractor shall perform its Migration-Out obligations hereunder to the extent applicable to the Service or Services being terminated. The Contractor's obligations hereunder regarding the collection and payment to the California Department of Technology of administrative fees shall continue throughout Migration-Out.
- c) If the State determines that the Contractor has not complied, or is unlikely to comply, with Migration-Out requirements identified in the Migration-Out Plan, and such non-compliance was a direct result of the Contractor, Subcontractor or supplier, and not due

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to any third party or situations outside the control of the Contractor, as determined by the State, the State may give written notice to the Contractor of non-compliance. After such notice, the Contractor shall provide to the State all necessary additional Contractor personnel to accelerate performance as may be required or necessary to timely achieve compliance or, if the Contractor has already failed to comply, achieve compliance within a re-adjusted time frame established by the State. The Contractor shall have seven (7) calendar days, or longer if agreed to by the State in writing, to achieve compliance.

- d) For each material Migration-Out requirement not completed after the notice of non-compliance period, the State shall be entitled to invoice the Contractor for up to \$2,000 per day for each Customer affected by a material deficiency not to exceed \$10,000 per day for all deficiencies until the Contractor is in material compliance with the requirements of the Migration-Out Plan. The Contractor may exercise its dispute rights under Section 54 (Disputes), in the event that the Contractor disagrees with the State's application of this Section; however, pending final resolution of any dispute, the Contractor shall diligently proceed without disruption or delay with the performance of the Migration-Out Plan.
- e) All Migration-Out Services performed by the Contractor during the conversion shall be performed by the Contractor at no additional cost to the State beyond what the State would pay for the Services.
- f) The Contractor shall provide to the State all State data and documentation and other information reasonably requested by the State in connection with the conversion that is sufficient to enable the State, or another reasonably competent Service provider, to fully assume the provision of any terminated Services. Except as the Contractor is otherwise required to retain such data under this Contract or by law, the Contractor shall destroy all copies of Customer data not turned over to the State.

The Contractor shall export all artifacts and data to the requesting Customer. The State reserves the right to define export data formats, storage media type, locations to which data is to be delivered, and other special criteria deemed necessary for successful Migration-Out.

- g) To the extent applicable to the Services provided by the Contractor hereunder, the Contractor shall provide to the State as complete and accurate an inventory as is reasonably practicable and such other information regarding such items as the State reasonably requests and is necessary for Migration-Out of Services.

83. REPORTS, DATA AND INVENTORY

The Contractor shall provide all reports required by this Contract or otherwise requested by the State. Upon the State's request, at intervals and for any reason related to the Contract and Services provided under the Contract, during the Contract Term, the Contractor shall provide to the State all data and documentation and all other information as requested by the State. The export data formats and

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storage media type will be defined by the State.

84. SUBCONTRACTORS

Unless otherwise specified in the Contract:

Contractor shall not subcontract all or any part of the Service without the prior written consent of the State, which will not be unreasonably withheld; provided, however, that Contractor may subcontract for internal infrastructure support, not specifically for this Contract, without notice to or consent from the State.

Each subcontractor will perform only the specific Services described with regard to such subcontractor in a written request submitted by Contractor to the State when seeking such consent; and no change may be made to the specific Services performed by a particular subcontractor, and no substitution, replacement, or change of subcontractors may be made, without the advance written consent of the State, which will not be unreasonably withheld. All performance of Services by each subcontractor shall at all times be in accordance with the terms and conditions of this Contract. Contractor covenants that its arrangements with subcontractors shall not prohibit or restrict any such subcontractor from, at any time, entering into direct agreements with the State. The State's consent with respect to Contractor's use of a particular proposed subcontractor, shall be given or withheld in writing within Contractor's reasonably requested timeframe, and, if such consent is withheld, the State's notice thereof to Contractor shall set forth the reasons for such withholding of consent. If the State determines in good faith and in a commercially reasonable manner that the performance or conduct of any subcontractor is unsatisfactory, the State may notify Contractor of its determination in writing, indicating the reasons therefore, in which event Contractor shall promptly take all necessary actions to remedy the performance or conduct of such subcontractor or to replace such subcontractor by another third party or by Contractor personnel.

Contractor shall be solely and exclusively responsible for supervising the activities and performance of each subcontractor. Contractor and each such subcontractor shall be jointly and severally responsible for any act or omission of such subcontractor engaged to provide Deliverables, requirements, and Services under this Contract. Notwithstanding the fact that a subcontractor may be the party actually performing a particular Service or providing a particular Deliverable hereunder, Contractor shall at all times: (i) constitute the primary obligor for all of Contractor's duties and obligations hereunder; and (ii) be liable and responsible as a principal for the performance of all of the duties and obligations of Contractor hereunder that Contractor may elect to subcontract to any of its subcontractors or to any other third party.

85. GOVERNANCE

Unless otherwise specified in the Statement of Work:

- a) Before communicating any interpretation of this Contract that the State or any Customer is or may be in violation or breach of this Contract to any entity receiving, or eligible to receive, Deliverables, requirements, or Services under this Contract,

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Contractor shall first provide notice of such interpretation to the State.

- b) Committees and Meetings. During the Term, representatives of the State and Contractor shall meet periodically or as requested by the State to discuss matters arising under this Contract, including any such meetings provided for the Migration-In Plan. Contractor shall bear its own costs in connection with the attendance and participation in such meetings. Such meetings shall include, at a minimum, the following:
- i. Operations. At least monthly, an operations committee shall meet to review Contractor's performance hereunder and any reports, any planned or expected activities and changes that might impact performance, and such other matters as appropriate.
 - ii. Management. At least quarterly, a management committee shall meet to review Contractor's overall performance hereunder and any reports, progress on the resolution of any issues, to provide a strategic perspective for the State's telecommunication requirements, and such other matters as appropriate.
 - iii. Executive. At least semi-annually, an executive committee shall meet to review Contractor's overall performance hereunder and the ongoing provision of the Services.

86. SECURITY AND POLICIES

Unless otherwise specified in the Contract:

At all times during the term, in addition to any other requirements in the Contract, and as further delineated in subsequently executed orders, at all times during the Term, Contractor shall provide all Services, use all resources related thereto, and use, operate, support, and maintain any systems, in an appropriately secure manner and in accordance with the State's security requirements, policies, and procedures as communicated, modified, supplemented, or replaced by the State from time to time, in its sole discretion, by providing Contractor with a written copy of such revised requirements, policies, or procedures reasonably in advance of the date that they are to be implemented and effective ("**Security Policies**").

Contractor shall at all times take all reasonably necessary and appropriate action with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to and use of systems and the networks involved with the provision or receipt of Services, including the implementation and deployment network management and maintenance applications and tools, the use of appropriate encryption technologies, and other security-related Services. In addition, all Contractor personnel (including personnel of any subcontractors) shall be subject to, and shall at all times conform to, all of the State's policies, procedures, rules, and requirements regarding the protection of premises, materials, equipment, and personnel, as the State shall provide (in writing or electronically) in advance to Contractor. Contractor

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shall, and shall cause Contractor personnel and subcontractors to, fully comply with and abide by all such Security Policies provided in advance to Contractor at all times during the Term. Any violation or disregard of such Security Policies by an individual shall be cause for denial of access of such individual to the State's property. Contractor shall exercise due care and diligence to prevent any injury to person or damage to property while on the State's premises. The operation of Contractor vehicles or private vehicles of Contractor personnel on the State's property shall conform to posted and other regulations and safe driving practices. Vehicular accidents on the State's property and involving Contractor personnel shall be reported promptly to the appropriate State personnel. Contractor shall, and shall cause Contractor personnel and subcontractors, to not exceed (or attempt to exceed) the level of authorized access, if any, to any networks, computer or electronic data storage systems of the State that may be granted during the Term for purposes only of performing the Services hereunder.

87. DOCUMENTATION

Contractor agrees to provide to the State, at no charge, all Documentation described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Services, Equipment or Software provided hereunder, including any marketing information. Contractor agrees to provide additional Documentation at prices not in excess of charges made by Contractor to its other customers for similar Documentation.

88. RIGHTS IN WORK PRODUCT

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this subsection may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for Contractor or its Affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") does not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other original elements of Pre-Existing Materials do not. Nothing in this Section will be construed to interfere with Contractor's or its Affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work

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Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.

- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by Contractor or jointly by Contractor and the State may be used by either party without obligation of notice or accounting.

This Contract shall not preclude Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

89. ELECTRONIC WASTE RECYCLING ACT OF 2003

Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

90. USE TAX COLLECTION

In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code.

Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

91. EXPATRIATE CORPORATIONS

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.

92. DOMESTIC PARTNERS

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code Section 10295.3.

93. PRIORITY HIRING

If this Contract includes Services in excess of \$200,000, 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 Public Contract Code Section 10353.

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STATE OF CALIFORNIA
DEPARTMENT OF
TECHNOLOGY
STATEWIDE TECHNOLOGY PROCUREMENT

REGISTRATION NUMBER

STANDARD AGREEMENT AMENDMENT

TECH 213A (rev. 06/2020)

AGREEMENT NUMBER
C4-CVD-19-001-03

AMENDMENT NUMBER
5

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

CONTRACTING AGENCY NAME

California Department of Technology

CONTRACTOR NAME

Cellco Partnership d/b/a Verizon Wireless

2. The term of this Agreement is: May 23, 2019, or upon approval of Tech 213 by CDP STP, whichever is later through June 30, 2025, with one (1) two-year option to extend.

3. The maximum amount of this Agreement after this Amendment is: \$0.00
(Zero Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the amendment. All documents and actions noted below are by reference and made part of the Agreement and incorporated herein:

Effective upon CDT STP approval of this Amendment the revisions are as follows:

A. In accordance with the provisions of IFB C4CVD18 Part 1 - General Instructions, Section 1.2, Contract Term, the State exercises its option of one (1), two-year extension for Subcategory 19.1 Cellular Business Services and Subcategory 19.2 First Responders Cellular Services.

All other terms and conditions remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	Department of Technology (CDT), Statewide Technology Procurement (STP) Use Only	
CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.) Cellco Partnership d/b/a Verizon Wireless		
CONTRACTOR AUTHORIZED SIGNATURE 	DATE SIGNED May 15, 2023	
PRINTED NAME AND TITLE OF PERSON SIGNING Todd Loccisano, VP-Contract Management		
ADDRESS 10170 Junction Drive, Annapolis Junction, MD 20701		
STATE OF CALIFORNIA		
CONTRACTING AGENCY NAME California Department of Technology		
CONTRACTING AGENCY AUTHORIZED SIGNATURE		DATE SIGNED May 15, 2023
PRINTED NAME AND TITLE OF PERSON SIGNING Scott Mac Donald, Deputy State Chief Technology Officer		
CONTRACTING AGENCY ADDRESS P.O. Box 1810, MS Y-12, Rancho Cordova, CA 95741-1810		

EXEMPT PER:

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Contract#: MA 152-1

EXHIBIT A-3
NASPO / Verizon Wireless
MA152-1

STATE OF UTAH COOPERATIVE CONTRACT

I. CONTRACTING PARTIES: This contract is between the Utah Division of Purchasing and the following Contractor:

Cellco Partnership d/b/a Verizon Wireless

Name

10170 Junction Drive

Street Address

Amnapolis Junction

MD

20701

City

State

Zip

Vendor# 94253A Commodity Code#: 72551, 91579 Legal Status of Contractor: For-Profit Corporation

Contact Name: Doug Robertson Phone Number: 949-249-8700 Email: doug.robertson@verizonwireless.com

2. CONTRACT PORTFOLIO NAME: NASPO ValuePoint Wireless Data, Voice, and Accessories.

3. GENERAL PURPOSE OF CONTRACT: Wireless Data, Voice, and Accessories.

4. PROCUREMENT: This contract is entered into as a result of the procurement process on FY 2019. Solicitation# CJ18012.

5. CONTRACT PERIOD: Effective Date: Monday, August 12, 2019 Termination Date: Sunday, August 11, 2024 unless terminated early or extended in accordance with the terms and conditions of this contract.

6. Administrative Fee (if any): 0.25% on Corporate/Government Responsible (CRU) accounts and 0.10% on Individual Responsible ORV.

7. Prompt Payment Discount Details (if any): 5 Year contract that may be extended an additional 5 years.

8. ATTACHMENT A: Master Terms and Conditions ATTACHMENT L: Network Technology Questionnaire

ATTACHMENT B: Scope of Work

ATTACHMENT M: New Product Request Form

ATTACHMENT C: Cost Sheet

ATTACHMENT N: New Product Log

ATTACHMENT G: Plan Description

ATTACHMENTS: Security Disclosures

ATTACHMENT H: Award Category 1 Reporting Template

ATTACHMENT V: Award Category Sheet

ATTACHMENT I: Award Category 2 Reporting Template

ATTACHMENT W: Award Category Sheet

ATTACHMENT J: Award Category 3 Reporting Template

Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

9. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:

- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
- b. Utah Procurement Code, Procurement Rules, and Contractor's response to solicitation #CJ18012.

10. Each signatory below represents that he or she has the requisite authority to enter into this contract.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 5 above.

CONTRACTOR

DIVISION OF PURCHASING

08/09/2019

Date

Contractor's signature

Director, Division of Purchasing

Date

Todd Loccisano, VP - Contract Management

Type or Print Name and Title

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EXHIBIT A-3
NASPO VALUEPOINT MA-152-1



Attachment A:
NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

a. Any Order placed under this Master Agreement shall consist of the following documents:

- {1} A Participating Entity's Participating Addendum {"PA"};
- {2} NASPO ValuePoint Master Agreement Terms & Conditions;
- {3} A Purchase Order and/or an attached Specifications or Statement of Work {SOW} for Category 3 of the Solicitation
- {5} Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- {6} The Solicitation, NASPO ValuePoint - Wireless Data, Voice, and Accessories# CJ18012.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

2. Definitions

Acceptance is defined by the Uniform Commercial Code {UCC} or the applicable state commercial code to the extent required by law. Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

Contractor means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

Corporate/Government Responsible (CRU) accounts mean Products purchased by a Purchasing Entity under this Master Agreement.

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1. **Embedded Software** means one or more software applications which come preloaded on Equipment by the manufacturer, but does not include SaaS or subscription software subject to a separate license agreement.

Equipment means any device and accessory sold under this Master Agreement.

Intellectual Property means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

Individual Responsible (IRU) Accounts means purchases made by employees of a Participating State or Purchasing Entity for personal use.

Lead State means the State centrally administering any resulting Master Agreement(s).

Master Agreement means the underlying agreement executed by and between the Lead State and the Contractor, as now or hereafter amended.

NASPO ValuePoint is the cooperative contracting arm of the National Association of State Procurement Officials (NASPO), a non-profit organization formed in 1947 to promote public procurement throughout the country. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and the NASPO ValuePoint administrative fee; and may perform contract administration functions relating to collecting and receiving reports and fees, as well as other contract administration functions, as assigned by the Lead State.

NASPO ValuePoint Administrative Fee means the payment based on the amount of CRU and IRU Account gross sales less any discounts, credits, taxes, fees, and shipping. The NASPO Administrative Fee for IRU Accounts shall be calculated based only on Products purchased and receiving a discount under this Master Agreement.

Order or Purchase Order means any written purchase order, sales order, contract or other document used by a Participating Entity or Purchasing Entity to order the Products. Purchase Orders shall not have additional terms and conditions that are not required by law or regulation. Purchase Order terms and conditions that conflict with this Master Agreement or a Participating Addendum will be considered void.

Participating Addendum means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, entity-specific terms and conditions, or as mutually agreed upon between the Parties.

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Participating Entity means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

Participating State means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity; however, a state listed in the Request for Proposal is not required to participate.

Product means any Equipment, software (including Embedded Software), software as a service ("SaaS"), documentation, professional services, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

Purchasing Entity means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states, authorized or otherwise eligible to place an order under the terms of this Master Agreement, that issues a Purchase Order against a Participating Addendum and this Master Agreement.

Statement of Work (SOW) means a document that details the work of Category 3 Products and clarifies deliverables, costs, and timelines.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

a. The initial term of this Master Agreement is for Five (5) years from the last date of signature of this Master Agreement. This Master Agreement may be extended beyond the original contract period for up to Five (5) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended by mutual agreement for a reasonable period of time in adherence to the Lead State's Procurement Code, if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. Amendments

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

5. Participants and Scope

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- a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum or other documentation acceptable to the Participating Entity and Contract or is executed. Additional methods of ordering may be utilized if agreed to by the Lead State, NASPO and the Contractor in writing. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Purchasing Entity, except to the extent altered, modified, supplemented or amended by a Participating Addendum or Statement of Work (or included in a Purchase Order, as expressly required by a Purchasing Entity's laws or regulations). By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by a Purchasing Entity to place the Order.
- b. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies and political subdivisions are subject to the approval of the respective State Chief Procurement Official. Other Participating Entities (including cooperatives) authorized by individual state statutes to use state contracts including Native American government tribes and non-profit organizations, may be subject to the approval of the respective State Chief Procurement Official and/or their respective procurement rules. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Unless prohibited under law or regulation, States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each state Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate NASPO data bases.
- e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments to the Master Agreement; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such

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language shall be void and of no effect.

f. Participating Entities, which are not states, may under some circumstances sign their own Participating Addendum. To the extent required by NASPO ValuePoint's cooperative purchasing program, or as otherwise may be required by applicable law, Participating Entities may be subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Requests for such participation are to be made through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum or placement of a purchase order, is not a determination that procurement authority exists in the Participating Entity; each entity must ensure that it has the requisite procurement authority to execute a Participating Addendum or to place an order under the Master Agreement.

g. Resale. "Resale" means any payment in exchange for transfer of Products or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products for official use only; sales of Equipment to the general public or the Purchasing Entity's employees as surplus property in compliance with the Purchasing Entity's Surplus Property Program; and fees associated with inventory transactions with other governmental or nonprofit entities consistent with a Purchasing Entity's applicable laws and regulations, Participating Addendum, Purchase Order and/or User Agreement. Purchasing Entities are responsible for any taxes associated with the resale of surplus property. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

If fraud or abuse is discovered (e.g., such as a repeated pattern of purchasing discounted devices with service and disconnecting the service prior to the termination of the order or purchasing an excessive number of accessories compared to the number of active lines on the account), Contract or reserves the right to charge the full retail value for the Equipment and terminate the Participating Addendum and/or Order.

6. Administrative Fees

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of 0.25% on Corporate/Government Responsible (CRU) accounts and 0.10% on all Individual Responsible (IRU) accounts no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services for both Corporate/ Government Responsible (CRU) and Individual Response (IRU) accounts under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable.

b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for

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purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

7. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to reports required by this solicitation or otherwise agreed to by the Parties, the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculatornaspo.valuepoint.org>. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state for Government Responsible accounts. A separate report shall be submitted and reported as cumulative totals by state for Individual Responsible (IRU) Accounts. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than forty-five (45) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data using the format provided in Attachments H, I, J and K. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than forty-five (45) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under this Master Agreement.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity that are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report.

d. Contractor shall provide NASPO ValuePoint with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum and states that Contractor is in negotiations with for a NASPO Participating Addendum. NASPO ValuePoint and Contractor will determine the format and content of the executive summary. The executive summary is due forty-five (45) days after the conclusion of each calendar quarter.

e. Timely submission of these reports is a material requirement of the Master Agreement. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, non-transferable right to modify, copy, and otherwise use reports, data and information provided under this section. Any sharing of the data with anyone other than the entities listed in Section f. below requires the Contractor's

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written authorization.

f. All Participating Entities and Purchasing Entities are deemed to have consented to the release of any required reporting information to the Lead State, their respective Participating State and NASPO ValuePoint (including information generally deemed Customer Proprietary Network Information (CPNI) for purposes of monitoring the contract and calculating the fees that are due and payable to NASPO ValuePoint for administering the contract. Participating Entities and Purchasing Entities have a right to decline to release this information, however, they may not purchase under the Master Agreement if they choose to do so.

8. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Under a non-disclosure agreement, Contractor agrees to present plans to NASPO ValuePoint for the management and promotion of the Master Agreement.

b. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider a Purchasing Entity's proposed terms and conditions, as deemed important to the Purchasing Entity, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.

c. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

d. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

e. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to section 28 herein, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than one year after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to section 28 herein or to terminate for default pursuant to section 30 herein.

f. Contractor agrees to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in any Cooperative Purchasing Agreements that may affect the promotion of this Master Agreement or whose terms provide for adjustments to future rates or pricing based on rates,

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pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions. For the purposes of this paragraph, Cooperative Purchasing Agreement shall mean a cooperative purchasing program facilitating public procurement solicitations and agreements using a lead- agency model. This does not include contracts with any federal agency or any federal contract.

9. Right to Publish

Except for publicly available information, throughout the duration of this Master Agreement, Contractor must secure from the Purchasing Entity and/or Lead State (based on which entity holds the public record) prior approval for the release of information. This limitation does not preclude publication about the award of the Master Agreement or marketing activities. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

10. Price and Rate Guarantee Period

Contracted prices represent ceiling prices for the supplies and services offered. Bid prices must remain firm for the full term of the Master Agreement. Requests for price increases must include sufficient documentation supporting the request which shall not be effective unless approved by the Lead State in writing. No retroactive adjustments to prices or rates will be allowed.

11. Individual Customers

Except to the extent modified by a Participating Addendum or SOW, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own taxes, charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

Administration of Orders

13. Ordering

- a. The Contractor will have an ordering system that will allow for ordering documents to include the Purchasing Entity's purchase order number, this Master Agreement number or other ordering number.
- b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may

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also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of Products, supplies and/or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

e. All Orders pursuant to this Master Agreement, at a minimum and where applicable, may include the following:

Packing Slip (with shipment)

- Item Summary
 - Product description
 - SKU
 - IMEI
 - ICCID
 - Retail Price
- Line Details
 - Mobile Number
 - User Name
 - Contract Term
- Quantity
- Price
- Subtotal charges
- Ship to Address
- Order Number
- Location Code
- Date order was placed
- Date order was processed
- Ship date
- Package ID

Order Summary Details (Delivered by Email)

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- Order Number
- Order Status
- Order Type
- Order Created by
- Order Date
- Ship Date
- Bill to Entity name and address
- Ship to name and address (may enter Purchasing Entity ordering information in text)
- Payment method
- Shipping courier
- Tracking number
- Mobile Number
- Device ID
- SIM ID
- User Name
- Product description
- Quantity
- Plan and feature details
- Total charges

f. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

g. Orders must be placed pursuant to this Master Agreement prior to the termination date. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

h. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration, cancellation or termination.

14. Shipping and Delivery

a. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations. Any portion of an order to be shipped without transportation charges that is backordered shall be shipped without charge.

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b. Unless otherwise instructed or not practicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form. Any damage to the building's interior, scratched walls, damage to the freight elevator, or other damage caused by the Contractor during the delivery of Products purchased under this Master Agreement will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order. The Purchasing Entity shall immediately notify the Contractor of any suspected damage by the Contractor's agent.

c. All new Products purchased under this Agreement must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number.

15. Laws and Regulations

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. Inspection and Acceptance

The inspection and Acceptance section below shall not apply to Category 3 Products from the solicitation. The inspection and Acceptance for Category 3 Products shall be described in a separate exhibit or contractual document and agreed to between the Purchasing Entity and the Contractor.

a. This section is not intended to limit rights and remedies under the applicable state commercial code or UCC.

b. All Products are subject to inspection at reasonable times and places before Acceptance, which shall not exceed 30 days from the date of delivery. Upon inspection and if the Purchasing Entity finds Products furnished to be incomplete or in non-compliance with bid specifications, the Buyer may reject the Products and require Contractor to correct them without charge. If Contractor is unable or refuses to correct such Products within a reasonable amount of time, the Purchasing Entity may cancel the Order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the applicable state commercial code or UCC. Contractor shall provide prepaid shipping labels for all Products returned under this paragraph.

c. The warranty period shall begin upon Acceptance.

d. If the Product is not Accepted after inspection, a Purchasing Entity may, at its discretion, reject the Product within the inspection time period described in paragraph b of this section. Upon rejection, the Contractor will

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have fifteen (15) calendar days to cure. If after the cure period, the Product still has not been Accepted, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand a similar replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall provide packaging and prepaid shipping labels for Products not Accepted. No charges for Products rejected shall be paid until Acceptance has taken place.

17. Payment

Payment after Acceptance is due within 30 days following the date the Product is delivered or installed, or the date a correct invoice is received, whichever is later, unless otherwise specified within the Order. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail or electronic funds transfer (EFT). Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

18. Warranty

The Warranty section below shall not apply to Category 3 Products from the solicitation. The Warranty for Category 3 Products shall be described in a separate exhibit or contractual document, agreed to between the Purchasing Entity and the Contractor and no less than one (1) year.

Unless specified in any other contract document pursuant to this Master Agreement, this Warranty section governs. The Contractor warrants for a period of one year from Acceptance that : (a) the Product will perform according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has reasonably relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of material defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity, including, packaging and prepaid shipping labels) the Product whose nonconformance is discovered and made known to the Contractor. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

19. Title of Product

Upon Acceptance and payment by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to Equipment free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Equipment shall include an irrevocable and perpetual license to use any Embedded Software in Equipment purchased. If Purchasing Entity subsequently transfers title of the Equipment to another entity, Purchasing

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Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Equipment's title. A subsequent transfer of this Embedded Software shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

20. License of Embedded Software

Contractor grants to the Purchasing Entity a non-exclusive, royalty free, perpetual license to use the Embedded Software to achieve the purposes of the Master Agreement.

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General Provisions

21. Insurance

- a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed, authorized or permitted to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- b. Coverage shall be written on an occurrence basis. The limits shall be as indicated below:
- (1) Commercial General Liability including premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury, advertising liability bodily injury (including death) and property damage, with a limit of \$1 million per occurrence and \$2 million general aggregate; unless otherwise required by State law.
- (2) Workers Compensation in compliance with the statutory requirements of the state(s) of operation and Employers Liability with a limit of \$1 million each accident/disease/ policy limit insurance requirements.
- c. Contractor shall pay premiums on all insurance policies. Upon receipt of notice from its insurer(s) Contractor shall provide thirty (30) days' prior written notice of cancellation to a Participating Entity.
- d. Prior to commencement of performance, Contractor shall provide to the Lead State a certificate of insurance reasonably acceptable to the Lead State that (1) includes the Participating States identified in the Request for Proposal as additional insureds as their interest may appear under this Agreement, (2) the blanket additional insured endorsement, (3) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (4) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.
- e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum, respectively.

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f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

22. Records Administration and Audit

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State to examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions to assure compliance with the terms hereof or to evaluate performance hereunder. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any Order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

To the extent required by law, the federal government (including the U.S. Comptroller General), and any other duly authorized agent of a governmental agency may audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations to assure compliance with the terms hereof or to evaluate performance hereunder. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any Order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Upon notification and within a reasonable amount of time and without limiting any other available remedies, the Contractor shall reimburse the Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders; or the Purchasing Entity or NASPO ValuePoint for underpayment of Contractor's Administrative Fees.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations. Contractor agrees to keep and maintain full, true, and complete billing records, books, and documents as are necessary to fully disclose to the Lead State or the United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with this Agreement and all state and federal regulations and statutes.

d. Participating Entities' Rights. Contractor will provide each Participating Entity with reasonable access to Contractor's billing records, invoices, and price plan details related to the corresponding Participating Entity's payment and participation in the Master Agreement.

23. Confidentiality, Non-Disclosure, and Injunctive Relief

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of

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providing a Product under this Master Agreement, be exposed to or acquire information that is confidential. Any and all information of any form that is marked as confidential, or information which the Contractor believes to be Customer Proprietary Network Information (CPNI) pursuant to federal law (specifically, 47 USC 222(h)), or Personally Identifiable Information (PII) obtained by Contractor or its employees or agents in the performance of this Master Agreement is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor will use commercially reasonable efforts to promptly notify the Purchasing Entity, applicable Participating Entity, and the Lead State and assist in investigating and assessing the extent and nature of the unauthorized disclosure. Notification is made based on statutory or contractual requirements. Contractor shall, at its expense to the extent caused by Contractor or their agent, cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity, or certify the destruction of, all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the

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legitimate business interests of Purchasing Entity and are reasonable in scope and content.

- d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- e. The rights granted to Purchasing Entities and Contractor's obligations under this section shall also extend to NASPO ValuePoint's properly marked Confidential Information. To the extent permitted by law, this provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 22. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.
- f. Participating Entities are deemed to have consented to the sharing of CPNI and account information with the Lead State and NASPO ValuePoint as a condition of utilizing this contract with its associated pricing. Said information will only be used for purposes of calculating the administrative fees to which NASPO ValuePoint may be entitled for administering this contract. Where such information is required by any Participating State, which may impose its own administrative fee, such information may also only be used by it for purposes of calculating the administrative fee to which it may be entitled.

24. Public Information

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public records laws.

25. Assignment/Subcontracts

- a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.
- b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO ValuePoint and another State.

26. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel (listed in the Contractor's Solicitation response) managing the Master Agreement in writing within 10 calendar days of the change. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience that was possessed by the key person proposed and evaluated in the Contractor's proposal. Changes in key personnel are subject to the written consent of the Lead State, which shall not be unreasonably withheld.

27. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements,

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liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

28. Cancellation

Unless otherwise stated, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

29. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

30. Defaults and Remedies

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

- {1) Nonperformance of contractual requirements; or
- (2) A breach of any material term or condition of this Master Agreement; or
- {3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or
- (4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty {30} calendar days after the institution or occurrence thereof that impairs Contractor's ability to perform under the contract; or
- (5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default.

Upon the occurrence of an event of default for Category 3 Products, the Lead State shall issue a written notice of default and identify the nature of the default. Contractor shall have sixty {60} days to cure, unless otherwise agreed by the Purchasing Entity and the Contractor in light of the circumstances.

The Lead State shall not be required to provide advance written notice or a cure period and may immediately

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terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified above in Section b, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

- (1) Exercise any remedy provided by law;
- (2) Terminate this Master Agreement and any related Orders or portions thereof;
- (3) (Intentionally Omitted);
- (4) Suspend Contractor from being able to respond to future bid solicitations;
- (5) Suspend Contractor's performance; and
- (6) Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these this Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable state commercial code or UCC.

e. In the event a Purchasing Entity is using Products in a way that is prohibited under this Master Agreement, the Contractor shall provide fifteen (15) days written notice to the Purchasing Entity and to the Lead State of the prohibited activity, with specificity, and of its intent to cancel the Order in whole or in part, during which time the Purchasing Entity may cure the prohibited activity. If after fifteen (15) days the Purchasing Entity does not cure the prohibited activity, the Contractor may cancel the Order in whole or in part.

In the event a Purchasing Entity is suspected of using Products or services in a way not contemplated under this Master Agreement and detrimental to the Contractor, the Contractor may suspend any Products affected under this paragraph in whole or in part, entered into as a result of this Master Agreement. Upon suspension, the Contractor shall work with the Lead State, Participating State and Purchasing Entity to reach and document the resolution, including but not limited to Amending the Master Agreement, as may be agreed to by the Contractor and the Lead State.

Further, any Participating State may cancel its participation upon thirty (30) days written notice, unless otherwise limited or stated. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights of any Participating Entity to indemnification by the Contractor, Contractor's rights of payment for goods/services delivered and Accepted, NASPO ValuePoint's rights to payment of Administrative Fees, and each party's rights attending any warranty or default in performance in association with any order.

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31. Waiver of Breach

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

32. Debarment

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

33. Indemnification

a. The Contractor shall defend, indemnify and hold harmless NASPO and NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities ("Indemnified Parties"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs, for any death, injury, or damage to tangible property arising directly from negligent act(s), error(s), or omission(s) or willful misconduct of the Contractor, its employees and agents relating to the performance under the Master Agreement.

b. Indemnification - Intellectual Property. The Contractor shall defend, indemnify and hold harmless Indemnified Party, from and against claims, damages or causes of action by third parties, including reasonable attorneys' fees and related costs, finally awarded or agreed upon in settlement by Contractor arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

Exception. Contractor will not be liable for claims, damages or causes of action by third parties that are directly attributable to the negligent or willful misconduct of the Lead State, Participating Entities, Purchasing Entities, NASPO and/or their respective employees, officers, and agents.

c. Resolution of Claims and/or Termination of Product. With respect to any pending or threatened Intellectual Property Claim, Verizon may in its discretion and at its own expense obtain for Customer the right to continue using the Product, or alternatively replace or modify the Product, so that the replaced or modified Product is non-infringing but materially functionally equivalent. For Category 3 Products, "materially functional equivalent" shall mean the ability for end points and relevant systems in use by Purchasing Entities at the time of the Intellectual Property Claim to continue to interoperate and integrate with the Contractor's SaaS. If

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achievement of the foregoing is not commercially reasonable, Verizon may, in its sole discretion, terminate the affected Product or remove the affected Product, without liability of either party to the other for such termination, except for Customer's obligation to pay all charges for the affected Product incurred up to the time of such termination, and Verizon's obligation to return to Customer any amounts pre-paid for services which were not rendered.

Exclusive Remedy. Section b. provides the sole remedies Indemnified Party, and the exclusive obligations of Verizon and its Affiliates, in connection with any third-party claim, action, suit or other demand asserted against Indemnified Party which asserts infringement or misappropriation of such third party's intellectual property rights or is otherwise described in this Section.

d. Control of Defense- If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it; however, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible (and such consent shall not be unreasonably withheld).

If the Contractor fails to pursue the defense of the Intellectual Property Claim, the Indemnified Party may assume the defense of it and the Contractor shall be liable for all reasonable costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

The Party controlling such defenses shall keep the other party advised of the status of such action, suit, proceeding or claim and the defense thereof and shall consider recommendations made by the other party with respect thereto.

Cooperation among the Parties:

The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for Contractor's defense of the action or proceeding. The Indemnified Party may, at its option and expense, also retain counsel of its choice to participate in any action or proceeding with respect to such Claim; and Contractor and its legal counsel shall cooperate with the Indemnified Party and its legal counsel in providing such information as the Indemnified Party may reasonably request, in support of its defense. For the avoidance of doubt, however, if Contractor has agreed to defend the Claim, it shall have ultimate control over the defense of such Claim.

34. No Waiver of Sovereign Immunity

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued hereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

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35. Governing Law and Venue

- a. The Master Agreement shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.
- b. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.
- c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

36. Assignment of Antitrust Rights

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action, identified by the Participating Entity, which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action. Breach of this clause will not constitute a breach of, or invalidate any other part, provision or clause of this contract.

37. Contract Provisions for Orders Utilizing Federal Funds

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional mandatory contractual requirements or certifications that are applicable to the Contractor and must be agreed to at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

38. Entire Contract and Modification.

This Master Agreement and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. The terms of this Master Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written approval of the Lead State.

39. Signatures in Counterpart.

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This Master Agreement may be signed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one in the same instrument.

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MA152-1

Wireless Data, Voice, and Accessories

Attachment B

Scope of Work

Section 1: General

1.1 Background

The purpose of this Master Agreement is to provide Wireless Data, Voice, and Accessories for all Participating States. The Master Agreement may be used by state governments (including departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), the District of Columbia, territories of the United States, and other eligible entities subject to approval of the individual chief procurement official and compliance with local statutory and regulatory provisions. The initial term of the master agreement shall be 5 (Five) years with renewal provisions for an additional 5 (Five) as outlined in Section 3 of the NASPO ValuePoint Master Terms and Conditions (Attachment A).

1.2 Order of precedence

Per the NASPO ValuePoint Master Terms and Conditions, Participating Addenda (called "PA") will have precedence over the Master Agreement within the participating jurisdiction.

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1.3 Green Awards

End users of the Master Agreement may have requirements to purchase products and services that adhere best practices of sustainability and environmental consciousness. Contractor should anticipate addressing these needs as they arise in the Participating Addendum process.

1.4 E-Rate

To the extent the services offered are subject to the E-rate discount program, all award Contract Vendors must commit to participation in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the Contract Vendor.

1.5 Net Neutrality

Recent changes by the Federal Communications Commission in their rules related to the issue of Net Neutrality have increased state's interest in promulgating their own law, rule and policies on this topic. This solicitation will have no requirements related to Net Neutrality for the Master Agreements. It is anticipated, that this issue will be pertinent in the Participating Addendum process. Potential participating entities will be made aware of this consideration by the Lead State in a reasonable fashion.

Section 2: Categories of Award

2.0 Overview of Award Categories

The products and services for this contract are awarded in 3 (three) categories. These categories are:

Category 1- Cellular Wireless Services: This category will cover the basic cellular wireless transport services for voice, data and messaging, as well as any new basic transport services that may be introduced for applications like those defined for Internet of Things (IoT) applications. "Cellular wireless transport" is defined to mean carrier provided wireless services that employ a radio access network based on technologies defined by the Third Generation Partnership Program (3GPP). We are requesting pricing for both traditional cellular plans that include a subsidized mobile device as well as bring your own device (BYOD) plans where the user will supply their own mobile device and require only network service from the carrier.

Category 2- Equipment and Accessories: This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

Category 3- Turnkey Wireless and IoT Solutions that are offered as a product: This category includes any of the wireless or IoT solutions or applications being offered as a complete product by the cellular wireless carriers or any other Contractor(s).

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2.1 Category 1- Cellular Wireless Services

This category will cover the basic cellular wireless transport services for voice, data and messaging, as well as any new basic transport services that may be introduced for applications like those defined for Internet of Things (IoT) applications. "Cellular wireless transport" is defined to mean carrier provided wireless services that employ a radio access network based on technologies defined by the Third Generation Partnership Program (3GPP). We are requesting pricing for both traditional cellular plans that include a subsidized mobile device as well as bring your own device (BYOD) plans where the user will supply their own mobile device and require only network service from the carrier.

This Award Category is for National Award only.

2.1.1 Definitions

3rd Generation Partnership Project (3GPP) The international standards body that covers cellular telecommunications network technologies (<http://www.3gpp.org>).

3G Third generation of wireless mobile telecommunication technology as defined by the 3rd Generation Partnership Project (3GPP).

4G Fourth generation of wireless mobile telecommunication technology as defined by the 3rd Generation Partnership Project (3GPP).

5G Fifth generation of wireless mobile telecommunication technology as defined by the 3rd Generation Partnership Project (3GPP).

Bandwidth Throttling The mechanism a service provider uses to reduce the data network capacity available to a user of its wireless services.

Bandwidth Throttling Threshold In "unlimited" cellular data plans, the data volume at which the carrier begins instituting bandwidth throttling for the balance of the billing period.

Bring Your Own Device (BYOD) Plans where the user will supply their own mobile device and require only network service from the carrier.

Cellular Wireless Carrier: A wireless carrier that owns the majority of its infrastructure and operates a mobile wireless network primarily utilizing standards developed by the 3GPP.

Cellular Voice A wireless voice telephone service offered by the cellular carriers.

Cellular Wireless Carrier-provided wireless services that employs a radio access network based on technologies defined by the 3rd Generation Partnership Program (3GPP).

Coverage Area The geographic area in which a carrier provides service. When located within this area, a subscriber with a compatible device should be able to access usable wireless services on that carrier's network or its partner networks.

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FirstNet is a government subsidized wireless network specifically designed for the needs of public safety users; access to FirstNet services will be limited to defined categories of users related to public safety. FirstNet was created under the Middle-Class Tax Relief and Job Creation Act of 2012.

Individual Responsible (IR) Plan Discount Individual Responsible Accounts (“IRU”) are accounts for products and services between Contractors awarded a contract under this solicitation and individuals who are employees of eligible users of the Master Agreement. IRU accounts are for the personal use of individual employees of eligible end users of the Master Agreement.

Corporate/Government Responsible (CRU) Plan CRU plans are plans that are purchased by end users of the Master Agreement that is awarded from this solicitation.

Land Mobile Radio (LMR) Terrestrial-based, wireless communications systems, generally operating in the frequency range below 1 GHz, and commonly used by emergency responders to support voice and low-speed data communications.

Mission Critical Push-to-Talk (MCPTT) A new standard for public safety PTT systems (starting with 3GPP Rel. 13) that also operates over the cellular carriers’ wireless networks and supports, among other capabilities, the ability for wireless stations to discover and communicate directly with other system users without relaying those transmissions through a cellular base station.

LTE (Long-Term Evolution) A 3GPP standard for high-speed cellular wireless communications.

Mobile Messaging The ability to compose and exchange electronic messages that may include text, audio, video and other symbols between two or more users of mobile phones, tablets or other devices.

Public Safety The functions of government, which ensure the protection of citizens, persons in their territory, organizations, and institutions against threats to their well-being.

Push-to-Talk (PTT) A method of wireless voice communications using a momentary button to switch the wireless device from voice reception mode to transmit mode; in a cellular PTT system, all transmissions are relayed over the carrier’s radio channels and through a server installed in the carrier’s network infrastructure. Transmissions are received by all stations within range of that particular radio channel and are part of that broadcast group.

Quality of Service (QoS) Mechanisms employed in packet switching networks that allows them to prioritize certain classes of traffic over others thereby providing better performance for those preferred classes with regard to transit delay, jitter (variation in transit delay), and packet loss.

Short Message Service (SMS)/Multimedia Messaging Service (MMS) Wireless services offered by the cellular carriers allowing users to exchange short text (SMS) or audio/video files (MMS). These services are differentiated from other messaging services like Apple Messages and WhatsApp by the fact that they are offered by the cellular carriers and are typically charged as a separate item on the service plan along with voice and data.

Subsidized Plan Cellular plans where the carrier will provide a phone, or tablet at a subsidized price.

Wireless The transmitting of signals using radio waves instead of wires.

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Wireless Carrier A provider of wireless communications services that owns or controls all the elements necessary to sell and deliver services to an end user including radio spectrum allocation, wireless network infrastructure, back haul infrastructure, billing, customer care, provisioning computer systems and marketing and repair organizations.

Wireless Data A communication service offered by mobile carriers that allows users to access the internet and other data services via its wireless networks using a smartphone, tablet or other cellular-connected mobile device.

Wireless Plan A bundled subscription offering from a cellular carrier providing some combination of services.

Wireless Priority Service (WPS) A government-directed emergency phone service managed by the Department of Homeland Security's Office of Emergency Communications (OEC). Like FirstNet for data services, WPS provides priority network access to wireless voice service (2G or VoLTE) exclusively to defined categories of qualified subscribers.

2.1.2 Subsequent Network Characteristics and Technology

This solicitation covers the addition of new technology and methods that are substantively similar to existing 3G, 4G, and 5G Network characteristics.

2.1.3 Plans

Contractors will define the rate plans to be available under the Master Agreement that results from this solicitation and must provide all details of every plan offered in Attachment G. At a minimum plan details should include the items listed in Attachment G if applicable.

Subsidized Plans

Subsidized plans are those that include a device to connect to the wireless network as a part of the monthly plan cost.

Bring Your Own Device Plans

Bring your own device plans are those that require the user to provide a device for connection to the cellular network or to pay for a device separately from the monthly service plan.

2.1.4 Legacy Plans

Plans covered by the predecessor Master Agreements administered by the State of Nevada (Contract No. 1907)(“Legacy Plans”) for purchasing entities who are currently enrolled will be included within the scope of the Master Agreements awarded by this solicitation. All Legacy Plans must be described on Attachment G: Plan Coverage Attachment.

Discontinuance of Plans

Contractor will maintain plans if they are being used. Contractor may discontinue any plan or feature that has not had any active subscribers for at least the previous 90 days. Contractor to provide a minimum of 90 days notice to Lead State if a Plan is to be discontinued to end users.

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2.1.5 Service Requirements

Designated Sales Point of Contact

Each Master Agreement awarded by this solicitation shall have a designated point of contact for sales purposes.

Designated Customer Service Point of Contact

Each Master Agreement awarded by this solicitation shall have a designated point of contact for Customer Service escalation purposes.

Designated Contract Manager

Each Master Agreement awarded by this solicitation shall have a designated point of contact who manages the contract and may be contacted by administrators of the Master Agreement or PAs.

2.1.6 Pricing Requirements

Subsidized Device Plans

Plans covered by the predecessor Master Agreements administered by the State of Nevada (Contract No. 1907) that offered phones at no cost are to be included by the Master Agreements awarded by this solicitation if the Contractor is awarded under this solicitation. For any new plans offered under this contract, Proposers have the flexibility to include a subsidized phone in the plan cost or to require the user to provide a device or pay for it separately.

Financing

Financing is allowed under the Master Agreement, but may be subject to each PA as some jurisdictions may not allow Financing.

Individual Responsible (IRU) Plan Discount

Pricing Discounts for Individual Responsible plans by public employees are to be stated on the Cost sheet. See Section 5.

Waiver of Service Activation Fees

Service Activations Fees will not be allowed under the Master Agreements that derive from this solicitation.

Number Porting

Carrier must provide wired or wireless number porting to/from the mobile device with no charges or penalty.

Upgrade

Users must be able to upgrade or downgrade their service plan at any time with no limits and no restarting of service line contract terms.

Cancellation Fees

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Carrier must provide for any participating entity the ability to cancel at least 25% of the active lines of service under contract (subsidized device) in any given year with no early termination fees or other cancellation fees.

Carrier must not assess any cancellation fee or early termination fee for any lines of service that are provided under a Bring Your Own Device option where subsidized equipment is not included in the monthly rate plan cost.

Activation and Billing

Carrier must not commence billing for a device until completion of an order and activation request is executed by the participating entity representative, the user or another individual designated by the participating entity representative. Specific billing and activation procedures may be refined within Participating Addenda.

Cost Sheet

Contractor must populate the cost sheet Attachment C. The plans identified in Attachment C are to be offered to end users and will be included in Attachment G. Contractor must also indicate a discount for plans available under the master agreement that results from this solicitation., that are not entered into Attachment C.

Plan Description

Contractor must include detailed descriptions of all new rate plans approved by the lead state by fully populating Attachment G with complete details related to each plan and feature offered under this contract.

Presentation

Contractors should propose plans that can be easily understood without complex restrictions and terms. Scoring will reflect the degree of concise and impactful plans – from flexibility and cost perspectives.

2.1.7 Internet of Things (IoT) Services

Data plans related to Internet of Things services are covered by this award category. Please describe your Internet of Things offering as it relates to Attachment L, Network Technology Questionnaire in your proposal.

2.1.8 Public Safety/Wireless Priority Service

2.1.8 PUBLIC SAFETY CATEGORY

The Wireless Services Provider (Contractor) will describe how their proposal if and how they intend to provide an exclusive, dedicated broadband network for public safety communications to public safety entities and first responders.

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Contractor will describe if and how they would provide for a dedicated network exclusive for use by emergency response providers such as Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities; including Native American Tribes (Sovereign Nations) or authorized tribal organization and rural communities, unincorporated town or village, or other public entity.

Carriers will describe how their proposed services will have the ability to provide the most comprehensive, reliable coverage and highest priority for emergency communications, such as:

- Broadband LTE network allowing first responders and other public safety personnel to send and receive voice, data, video, images, push-to-talk and text without concerns about network congestion.
- Mobile Devices
- Mobile Device Management, to include Maintenance and Replacement
- Public Safety Applications and Solutions
- Assured Priority and Preemption when needed
- Network Security

Interoperability:

Interoperability is critical to all public safety agencies, therefore; The Wireless Service Provider (the Contractor), will describe how they enable comprehensive public safety broadband interoperability at all levels including the sharing of priority and preemption protocols, applications, and mission critical Push-to-Talk (MCPTT) communications and off-air device to device communications during an emergency situation.

Deployable Access:

The Wireless Service Provider (the Contractor) will describe how they will provide cellular connection in areas where service does not exist or where service fails during emergency circumstances. The Wireless Service Provider will describe how they provide dedicated access to Satellite Cell on Wheels and Portable Emergency Communications.

The Wireless Service Provider (Contractor) will describe additional deployable equipment for dedicated access in areas where service does not exist or where service fails during emergency situations.

Optional Services:

Additional Public Safety Services sold under the NASPO ValuePoint Master Agreement other than the requirements listed, must be properly reviewed and approved by the lead state.

Option to Terminate:

The NASPO ValuePoint Master Agreement is an additional procuring mechanism. The Wireless Service Provider (the Contractor) must agree; if a Public Service Entity chooses to utilize the

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NASPO ValuePoint Master Agreement, the procuring agency has the option to terminate their agreement at any time without added fees or penalties for cancellation.

The Lead State may cancel the Public Safety/Wireless Priority Service portion of the Category 1 Scope at any time. If the Lead State chooses to cancel the Public Safety/Wireless Priority Service portion of Category 1 Scope, it will provide contractors with 180 days notice.

No other Terms and Conditions, End User Agreements, or any other terms will be offered with the new product or service unless it is included in the Master Agreement.

2.2 Category 2- Equipment and Accessories

This category includes any equipment or accessories operating over cellular carrier provided network services or intended for use with cellular connected devices.

This Award Category is for National Award only.

2.2.1 Definitions

Accessories Any equipment, component or add-on accessory intended for use with cellular connected devices.

Equipment Any device operating over cellular carrier provided network. Does not include servers, desktops or laptop computing devices.

Cellular Devices Any phones or other equipment used to connect over wireless services offered by cellular carriers (Category 1).

2.2.2 Eligible Equipment and Accessories

Those products eligible as equipment and accessories under this solicitation, currently includes and may be expanded as technology advances:

- Basic Cellular Devices
- Smartphones - iOS, Android, Other
- Stand Alone, Integrated or USB Dongle Cellular Modems
- Wi-Fi/Cellular Routers
- Tablets that are cellular-network connected
- Other equipment with a primary purpose for communicating over the cellular carrier network, currently including:
 - Sensors

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- Cellular-enabled Video cameras
- Accessories:
 - Replacement Batteries
 - Cases & related accessories
 - Screen Protectors
 - Chargers
 - Cords / cables
 - Signal Boosters / antennae
 - Headsets and speakers for use with wireless devices

2.2.3 Service Requirements

Condition of Equipment and Accessories

All equipment and accessories provided under this contact must be new, unused and properly functioning when received by participating entity if priced as a new product.

Superseded, used, returned, or reconditioned items will be accepted if labelled as such in the sales order.

Trial Period

Contractor may allow for a designated trial period for testing/evaluating equipment and accessories without additional charges or fees if applicable. Contractor will describe the timeframe for the 'trial period' and procedures for implementing this policy in the sales invoice or purchase order.

Return of Equipment and Accessories

Any equipment or accessories that are not properly functioning when received by the participating entity must be replaced by the contractor with new and properly functioning equipment or accessories within 5 business days of the defective equipment or accessories being reported to the contractor.

Participating entities shall not be responsible for any costs related to the return and/ or replacement of any equipment or accessories that are returned due to quality problems, duplicate shipments or other shipping errors, outdated products or other issues related to non-compliance with terms of this agreement. Contractors must confirm in writing to the end user when returns are received.

Participating entities shall not be assessed restocking fees or any other fees for items trialed and then returned as unacceptable for any reason.

Contractor will allow for equipment and accessory purchases at all retail stores open to the public. Sales personnel at retail stores will be aware of pricing from the Master Agreement that results from this solicitation.

2.2.4 Pricing

Cost Sheet

See Attachment C for details for Award Category 2.

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Financing

Financing is allowed under the Master Agreement, but may be subject to each PA as some jurisdictions may not allow Financing.

Individual Responsible (IRU) Plan Discount

Pricing Discounts for equipment and accessories offered to public employees with Individual Responsible plans are to be stated on the Cost sheet (Attachment C). See section 5 for additional details.

Shipping

Contractor if a Carrier must activate service on new equipment within 72 hours of request or shipping.

2.3 Category 3 – Internet of Things and other Turnkey Wireless Applications

This category includes any of the wireless or IoT solutions or applications being offered as a complete product by the cellular wireless carriers or any other Contractor(s).

This Award Category may be for National Award, or Regional Award at the indication of the Contractor in their proposal. Contractors will indicate this preference in Attachment W.

Awards will be made in each individual sub-category of Category 3, not for Category 3 as a whole. An award in one sub-category does not entitle a vendor to offer products or services in any other subcategories for which they were not specifically awarded.

2.3.1 Definitions

Turnkey Wireless Solution For the purposes of this solicitation a Turnkey Wireless Solution is an integrated, on premise or hybrid system that includes three broad elements:

- End Points physical objects (things like sensors, cameras, end point devices, etc.) that contain embedded technology to sense or interact with their internal state or external environment and the ability to communicate with a remote application
- Network Services a wireless communication network providing M2M communication services or some other method of data transport connecting the dedicated physical objects with
- Back Office Systems applications and central or back end systems (servers, software, operating systems, storage, etc.).

2.3.2 Turnkey Wireless Solutions

A Proposal shall fully disclose what is included in the Turnkey Wireless Solutions, including all operational components, training, services, equipment, licenses, third party agreements, any and all fees and performance guarantees.

Products and services offered by carriers/Contractors under Legacy Plans that are now part of Category 3 awards under this solicitation will be part of the contracts that result from this solicitation if the carrier/Contractors has also been awarded under that Category and Sub-category.

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For example: MDM products under legacy plans may only be offered under the new Master Agreement if the Contractor is awarded under the MDM subcategory of Category 3 awards.

If a Contractor is not awarded a product under an Award Category 3 subcategory, but has provided a product or service under Legacy Plans, the Contractor may continue to offer the product to end users already under contract. The product may not be offered to new end users unless the Contractor has won award of the subcategory.

Turnkey Wireless Solutions Single Contract The provider offering a Turnkey Wireless Solutions may utilize subcontractors and partners to provide various elements of the system, but the system including all licensing rights will be covered by a single contract between the end user that purchases the system and the provider who is awarded a master agreement for this category of award.

Limited Related Service The provider shall provide support services as needed to install, maintain and enhance the system over the life of the system. These Limited Related Services shall be included in the system pricing. Installation services may be capped in proportion to the project at hand. The Proposal shall describe all related services that are included in the Turnkey Wireless System. The purchasing entity shall have the option to purchase additional services at pricing offered by the proposer and provide an hourly rate related to the project for the Additional Consulting or Integration Services.

Additional Consulting or Integration Services

- a. The purchasing entity shall have the ability to purchase consulting or integration services from the provider.
- b. Consulting Services – In Category 3, “Consulting Service” means planning, assessment and other professional consulting services provided by the Contractor related to the public entities planning, design, assessing, operating or maintaining an IoT solution.
- c. Additional Services – In Category 3, “Integration Service” means the process of making new IoT devices, data, platforms and applications, as well as existing IT assets (for example, business applications, data, mobile, SaaS and legacy systems) work well together in the context of implementing end-to-end IoT business solutions. Integration services are not part of turnkey system or limited related service, but may be acquired from the provider or from a separate integration service provider at the sole discretion of the purchasing entity.

Limited Related Service and Additional Consulting or Integration Services will be billed at an Hourly rate will be included on the Cost Sheet (Attachment C) and will be included in the Master Agreement. The Hourly rate will be a blended rate and will encompass all related cost for these additional services.

2.3.3 Category 3 Subcategories of Award

See Attachment V for Category 3 Subcategory Definitions.

Right to Refresh

This category of master agreements (Turnkey Wireless Solutions) may be reopened and refreshed at the sole discretion of the Lead State at any time. The refresh may allow additional Turnkey Wireless Solutions offering in the broad scope or by specifically identified sub categories. The

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Lead State reserves the right to change the methodology for award for all or any subcategories at the time of the refresh/reopen of the solicitation. Awards for Award Category 3 in any refresh solicitation will be given the same contract term as the initial award.

Data Protection

The provider shall:

- a. Specify the best available standards-based encryption technologies and options to protect sensitive data, depending on the particular service model that you intend to provide under this Master Agreement, while in transit or at rest.
- b. Describe whether or not it is willing to sign relevant and applicable agreements that may be necessary to protect data with a Purchasing Entity.
- c. Describe how it will only use data for purposes defined in the Master Agreement, participating addendum, or related service level agreement.
- d. Specify its data disposal procedures, policies and destruction confirmation process

Subcontractors

Providers must explain for each Turnkey Wireless Solutions offered if they intend to provide it directly or through the use of Subcontractors. Any Subcontractor that a Provider chooses to use in fulfilling the requirements of the solicitation must also meet all Administrative, Business and Technical Requirements of the RFP, as applicable to the solutions provided in this category.

- a. Contractor must describe the extent to which it intends to use subcontractors to perform contract requirements. Include each position providing service and provide a detailed description of how the subcontractors are anticipated to be involved under the Master Agreement.
- b. If the subcontractor is known, provide the qualifications of the subcontractor to provide the services; if not, describe how you will guarantee selection of a subcontractor that meets the experience requirements of the RFP.
- c. Include a description of how the Contractor will ensure that all subcontractors and their employees will meet all Statement of Work requirements.

2.3.4 Security For each Turnkey Wireless Solutions proposed include both a security disclosure statement.

Contractors for Award Category 3 must submit answers to Attachment S.

2.3.5 Client Infrastructure Impact and Support

Contractors will be willing to provide a description of the Impact and Support on End User infrastructure upon request Assessment what impacts the Turnkey Wireless application will have on the infrastructure used by purchasing entity, including the client's network, data storage and client owned and operated endpoints before installation. Contractor will at the time of purchase identify any support required by the purchasing entity to support the proposed Turnkey Wireless Solutions.

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2.3.6 Client Infrastructure and Support

Unless the purchasing entity waives the requirement, the Contractor shall provide a description of the Impact and Support on the End User infrastructure. This shall include an assessment of impacts the Turnkey Wireless application will have on the infrastructure used by purchasing entity, including the client's network, data storage and client owned and operated endpoints before installation. The description shall also identify any resources required by the purchasing entity to support the proposed Turnkey Wireless Solutions.

2.3.7 Pricing Requirements

Cost Sheet

See Attachment C for details for Award Category 3.

No other Terms and Conditions, End User Agreements, or any other terms will be offered with the new product or service unless it is included in the Master Agreement at formation or by Amendment.

Section 3: Adding New Products and Services

The Lead State anticipates establishing a process for regular communication with contractors and addition of new products and services. Addition of new products will be treated differently based on which category of award covers the product or service.

3.1 General Requirements

The Lead State, along with the sourcing committee of this Solicitation will review and add new products and services to the Master Agreements outlined below. The Lead State reserves the right to modify this process to ensure open, transparent and reasonable review of proposed new products and services.

3.2 New Products added under Award Category 1

For new service plans under Award Category 1, Carriers may add new plans as they become available to end users, so long as the plans are added to Attachment G, Contract Coverage Attachment, at the next quarterly update and therefore incorporated into the Master Agreement. If the new plans are not added to Attachment G at the next quarterly update, they will not be included within the scope of the Master Agreements that result from this solicitation. Once plans are incorporated into the Master Agreement in this manner, they are subject to the termination restrictions in section 2.1.4.

3.3 New Products added under Award Category 2

Contractors may add new products under Award Category 2 at any time as long as they fall within the scope of that award category. The Lead State reserves the right to make the determination of whether a product falls within award category 2.

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3.4 New Products added under Award Category 3

For new products under Award Category 3, Contractors must submit a request to the Lead State and sourcing team for consideration using Attachment N. All new products under Award Category 3 will be allowed only through amendment of the Master Agreements that result from this solicitation.

After consultation with the sourcing team, the Lead State may choose to include the new product under the Master Agreements by amendment. The Contractor will provide an updated Attachment G at the next quarterly update for public distribution.

3.4.1 New Product Request Form

The New Product Request form will be submitted to the Lead State to request any new products or services under Award Category 3(See Attachment M).

Proposed additional terms and conditions, end user agreements or related materials to be used with the new product must be included with the New Product Request form to be considered for addition to the Master Agreement. Terms and Conditions for additional products/services may be negotiated by the Lead State before addition.

3.4.2 New Product Request Log

All new added products and services under Award Category 3 will be included on Attachment N, Request Log sheet that will include Lead State recommendations and observations. This log will be included in the contract file and will be available for public view.

3.4.3 Quarterly Amendments

The Lead State expects to conduct quarterly amendments of the Master Agreement to add new products and services under Award Category 3. The Lead State reserves the right to amend, or not amend the Master Agreement at any time.

Terms and Conditions not included in the addition of new products for Award Category 3 will not be part of any agreement with end users. Contractors will present end users only with the Terms and Conditions agreed to by the parties in the Master Agreement Amendment.

3.4.4 Terms and Conditions Compliance with Master Agreement

All Products offered under Award Category 3 shall comply fully with all applicable Federal and State laws and regulations. The Order of Precedence clause in the NASPO ValuePoint Master Agreement Terms and Conditions and/or Participating Addendum will control in the event of any conflict between the NASPO ValuePoint Master Agreement and/or Participating Addendum and the Product Terms and Conditions. Any third-party product provider must agree to the Master Agreement Terms and Conditions.

3.5 Quarterly Call/Meeting

The Lead State expects to have a call with contractors every quarter to discuss the status of the contracts, discuss proposed new products and services, and any other issues that may arise regarding the contract. These calls/meetings will be scheduled at mutually agreed upon times.

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3.6 Terms and Conditions Compliance with Master Agreement

Any and all Products offered and furnished under any award category shall comply fully with all applicable Federal and State laws and regulations. The Order of Precedence clause in the NASPO ValuePoint Master Agreement Terms and Conditions and/or Participating Addendum will control in the event of any conflict between the NASPO ValuePoint Master Agreement and/or Participating Addendum and the Product Terms and Conditions. Any third-party product provider must agree to the Master Agreement Terms and Conditions.

Section 4: Individual Responsible Account Discounts

4.1 Individual Responsible Account Definition

Individual Responsible Accounts (“IRU”) are accounts for products and services between Contractors awarded a contract under this solicitation and individuals who are employees of eligible users of the Master Agreement. IRU accounts are for the personal use of individual employees of eligible end users of the Master Agreement. IRU discount offerings are not required by Contractors but are scored as a Technical Scorable Criteria for Award Category 1.

All other plans used under this contract by eligible end users are Government/Corporate Responsible Plans (CRU).45.2 Corporate Responsible Account Definition

Corporate Responsible Accounts (“CRU”) are accounts for end users of the Master Agreement.

4.3 Discount for Individual Responsible Account offerings

Contractors will indicate what, if any discount they allow for IRU accounts under this Master Agreement. This discount is entered in their Costsheets (Attachment C) and be included in the Master Agreement.

Section 5: Reporting

5.1 General Requirements

5.1.1 Reporting shall be provided in the format required by NASPO ValuePoint:

6.1.1.1 Attachment H (Award Category 1)

6.1.1.2 Attachment I (Award Category 2)

6.1.1.3 Attachment J (Award Category 3)

5.1.2 Attachment G: Contract Coverage Attachment

Contractors under the Master Agreement that results from this contract will submit quarterly Attachment G to the Lead State. This attachment is intended to encapsulate the

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plans, services and offerings of the contractor. This would include any legacy and current offerings, including the plans entered on Attachment C. (anything that would be covered by the Master Agreement).

For Award Category 1, all legacy plans that have a discount under the Current Nevada Master Agreement must continue the discount to be covered by the Master Agreement that results from this solicitation. All legacy plans that do not have a discount under the Current Nevada Master Agreement may continue to have no discount under the Master Agreement that results from this solicitation

Attachment G must be submitted by Contractors awarded under Award Category 1, Award Category 3 and Award Category 4.

5.1.3 Individual participating entities may request specific equipment sales summaries, which shall be provided at no cost.

Upon request, provide reporting elements and/or management reports related to usage for services that are available and would optimize the participating entity's ability to assess utilization and cost.

Be able to provide custom reports as may be requested by individual participating entities. Describe in general, the level of sophistication and complexity, custom usage report data that you can provide to the participating entities. Vendors should provide a sample report with their proposal.

Upon request, provide subscribers with usage reports which include full itemization of call details (such as the information on the Contractor's standard bill for consumer accounts) to enable verification of usage including: (1) call date, call number call length, call time, and (2) plan cost, per minute charges, overage cost, additional features charges and other fees, etc.

5.2 Quarterly Call/Meeting

Contractors must be available for a quarterly meeting by phone, video conference, or in person to discuss contract concerns, developments and any upcoming additional products or services related to reporting.

5.4 Usage Reports (Other States)

Other States and participating entities may have alternate reporting requirements and will be addressed by their Participating Addendum.

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Section 6: Pricing Landing Page

6.1 General

NASPO ValuePoint will develop a pricing landing page (webpage) to display contractor pricing in several key areas on an ongoing basis. It is anticipated that the end users will be able to use this Pricing Landing page as a tool to aid in pricing and negotiating plans and device accessory purchases from all awarded contractors. Contractors are expected to provide certain required fields for the Pricing Landing Page. This Section applies only to Category 1 awards.

6.2 Pricing Landing Page Requirements

6.2.1 General Requirements

The Pricing Landing Page will consist of a webpage to allow for quick reference of plans, equipment, accessories and services offered by contractors. Contractors may update the required fields at their discretion whenever they wish. The fields must be populated by contractors.

6.2.2 for Carriers/Contractors (Awarded under Category 1)

At the onset of the contract, Carriers/Contractors will be required to enter in pricing plans for the following scenarios that are found in Attachment C (Cost sheet):

- Plans that include a subsidized device in the monthly rate plan cost
 - Basic phone with unlimited voice and messaging
 - Smartphone - 4 Gig of data, unlimited voice & messaging
 - Smartphone - 300 minutes of voice, unlimited data & messaging
 - Smartphone - unlimited data, voice & messaging
 - data only - low - 150 kb
 - data only - moderate - 4 Gig
 - data only - unlimited data
- Plans that require user to supply the device or pay for it separately
 - Smartphone - 4 Gig of data, unlimited voice & messaging
 - Smartphone - unlimited data, voice & messaging
 - Tablet - 1 Gig of data
 - Tablet - shares data with other devices
 - data only - low - 150 kb
 - data only - moderate - 4 Gig
 - data only - unlimited data

These categories have been identified as representing the rate plans and services that are most commonly purchased by NASPO Participating Entities. The categories may be changed as desired by the contractor by submitting updates to NASPO ValuePoint.

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6.3 Pricing Landing Page Features

Pricing information

The Lead state will develop a required reporting based on the 14 scenarios listed in Attachment C for the landing page. The lead state reserves the right to determine requirements.

Disclaimers

Clear disclaimers to end users that all pricing reflects contractors best estimates for hypothetical use cases and does not represent local fees, taxes and potential discounts available at specific locations

Point of Contact Information

Sales, Customer Service and Contract Administration point of contact information for ease of reference Current

Offers

Current Discounts, Offers, and Specials available to end users. This would be done on a national basis. Disclaimers for reasonable variance will be allowed at the discretion of the lead state.

Section 7: Administration of Contracts

7.1 Quarterly Amendment

The Lead State anticipates it will provide for regular quarterly amendments to the Master Agreement if there is a need to add new products or services. (Section 4). The Lead State at its discretion may elect to amend the Master Agreement at any time.

7.2 Quarterly Call

The Lead State and sourcing team intend to hold quarterly calls to facilitate new products/services, discuss the administration of the Master Agreements, and all other applicable aspects of the master agreement.

7.3 Annual Meeting

Contractors must be available for an annual meeting in person to discuss continuing administration of the contract. The Lead State anticipates meeting once a year in person to facilitate more in depth communication. The location of in-person meetings will be in The Salt Lake City area, or elsewhere at the discretion of the Lead State.

7.4 Published Documents

The Lead State intends to publish all new product/service request forms, new product logs, and any sourcing committee recommendations and notes related for reference. End users may use these documents to aid in their purchasing decisions.

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EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$1,750,000.00 {"Maximum Contract Amount"} for fiscal year ending June 30, 2025.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in Exhibit A-1 through A-3 as determined by COUNTY.
- C. Monthly, CONTRACTOR shall submit to the contracting Department an invoice for the services performed over the period specified. Each invoice must clearly identify the services performed and must reference the assigned Master Service Agreement Contract Number for this Agreement. The contracting department shall evaluate the quality of the service performed and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory services or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

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EXHIBIT C

**Indemnification and Insurance Requirements
(For Service Contracts Not Requiring Professional Liability Insurance)**

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, and its employees. CONTRACTOR shall require any subcontractors to obtain and maintain substantially the same insurance as required of CONTRACTOR with limits commensurate with the work or service to be provided

A. Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form or equivalent covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits \$2,000,000 per occurrence for bodily injury and property damage and \$4,000,000 general aggregate.
2. **Automobile Liability:** Insurance Services Office Form or equivalent covering all owned, non-owned and hired vehicles in the amount of, \$1,000,000 combined single limit each accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance in compliance with the statutory requirements of the state(s) of operation, and Employer's Liability Insurance with limits \$1,000,000 each accident for bodily injury/\$1,000,000 disease-each employee/\$1,000,000 disease-policy limit. ***(Not required if CONTRACTOR provides written verification that it has no employees)***

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, and volunteers are to be included as additional insureds as their interest may appear under this Agreement on the CGL policy with respect

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to liability arising out of work or operations performed by the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance (at least as broad as ISO Forms or equivalent)

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Upon receipt of notice from its insurer(s) CONTRACTOR shall provide the COUNTY with thirty (30) days' prior written notice of cancellation of any required coverage.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
6. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with certificates of insurance and blanket additional insured and waiver of subrogation endorsements as proof of insurance, required by this Agreement. The certificates and endorsements are to be received and reasonably approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement.
7. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
8. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain substantially the same insurance as required of CONTRACTOR with limits commensurate with the work or service to be provided, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
9. **Special Risks or Circumstances** – COUNTY reserves the right, upon prior written notice to, review and acceptance by CONTRACTOR to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

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EXHIBIT D

FEDERAL CLAUSES

Additional Federal Clauses Applicable for Federal Funding under this Agreement: (2 CFR § 200.327; 2 CFR Part 200, Appendix II, Required Contract Clauses)

1. REMEDIES FOR NONCOMPLIANCE

In the event COUNTY determines, in its sole discretion, that CONTRACTOR is not in compliance with the terms and conditions set forth herein, COUNTY may:

- A. Require payments as reimbursements rather than advance payments;
- B. Withhold authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- C. Require additional, more detailed financial reports;
- D. Require additional project monitoring;
- E. Requiring CONTRACTOR to obtain technical or management assistance; or
- F. Establish additional prior approvals.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,

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regulations, and orders.

- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

3. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in

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addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTOR shall file the required certification attached as Exhibit E, Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)), which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. PROCUREMENT OF RECOVERED MATERIALS

- A. To the extent applicable, in the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

8. CHANGES

- A. Notice. The primary purpose of this clause is to obtain prompt reporting of COUNTY conduct that CONTRACTOR considers to constitute a change to this contract. Except for changes identified as such in writing and signed by COUNTY, the Contractor shall notify the COUNTY in writing promptly, within five (5) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the CONTRACTOR regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state

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- i. The date, nature, and circumstances of the conduct regarded as a change;
 - ii. The name, function, and activity of each Government individual and CONTRACTOR official or employee involved in or knowledgeable about such conduct;
 - iii. The identification of any documents and the substance of any oral communication involved in such conduct;
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
 - v. The particular elements of contract performance for which CONTRACTOR may seek an equitable adjustment under this clause, including:
 - What line items have been or may be affected by the alleged change;
 - What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
 - vi. CONTRACTOR'S estimate of the time by which COUNTY must respond to CONTRACTOR'S notice to minimize cost, delay or disruption of performance.
- B. Continued Performance. Following submission of the required notice, CONTRACTOR shall diligently continue performance of this Agreement to the maximum extent possible in accordance with its terms and conditions as construed by the CONTRACTOR.
- C. COUNTY Response. COUNTY shall promptly, within ten (10) calendar days after receipt of notice, respond to the notice in writing. In responding, COUNTY shall either --
- i. Confirm that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance;
 - ii. Countermand any communication regarded as a change;
 - iii. Deny that the conduct of which CONTRACTOR gave notice constitutes a change and when necessary direct the mode of further performance; or
 - iv. In the event the Contractor's notice information is inadequate to make a decision, advise CONTRACTOR what additional information is required, and establish the date by which it should be furnished and the date thereafter by which COUNTY will respond.
- D. Equitable Adjustments.
- i. If the COUNTY confirms that COUNTY conduct effected a change as alleged by the CONTRACTOR, and the conduct causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Agreement, whether changed or not changed by such conduct, an equitable adjustment shall be made --
 - In the contract price or delivery schedule or both; and
 - In such other provisions of the Agreement as may be affected.
 - ii. The Agreement shall be modified in writing accordingly. The equitable adjustment shall not

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include increased costs or time extensions for delay resulting from CONTRACTOR'S failure to provide notice or to continue performance as provided herein.

9. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide COUNTY, the California Governor's Office of Emergency Services, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

10. USE OF U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) LOGO

CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

11. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund this Agreement. CONTRACTOR will only use FEMA funds as authorized herein. CONTRACTOR will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

12. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

14. MANDATORY DISCLOSURE

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. CONTRACTOR is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321.)

15. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the

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United States.

- ii. "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- A. CONTRACTOR is prohibited from obligating or expending Funds to procure or obtain, and shall not enter into any contract (or extend or renew any contract) to procure or obtain, any equipment, services, or system that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- B. As described in Public Law 115-232, section 889, "covered telecommunications equipment" means:
 - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- C. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. See Public Law 115-232, section 889 for additional information. See also 2 CFR section 200.471.

17. STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with applicable mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201). COUNTY shall provide CONTRACTOR with a copy of the state energy conservation plan.

18. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

INTENTIONALLY OMITTED.

19. DRUG FREE WORKPLACE

CONTRACTOR must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the Governmentwide implementation (2 CFR part

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182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707). (WHEN FEDERAL FUNDS ARE USED AND FUNDED BY DEPT. OF HEALTH & HUMAN SERVICES)

20. SOFTWARE PURCHASES

Federal Requirement (45 CFR 95.617)

- A. County owns software, modifications, and associated documentation designed, developed or installed with Federal Financial Participation
- B. County grants an irrevocable license to federal government to use such software
- C. Does not apply to Commercial Off-the-Shelf (COTS) Software

21. OWNERSHIP CLAUSE

The County shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions of this paragraph.

22. FORCE MAJEURE

Contractor is excused from liability if some unforeseen event beyond the control of that party (for example, war, natural disasters, or other "Acts of God") prevents it from performing its obligations under the contract.

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EXHIBIT E

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))**

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

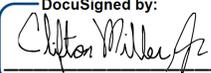
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:

7320C9CFE2851447
Cliff Miller, Sr. Dir-Contract Management (SLED)

8/6/2024 | 1:50 PM PDT

Date