



City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

24-191

Agenda Date: 6/25/2024

REPORT TO COUNCIL AND STADIUM AUTHORITY BOARD

SUBJECT

Action on a Standard Agreement with the California Highway Patrol for Traffic Management and Law Enforcement Services Related to Levi's Stadium Events

COUNCIL PILLARS

Deliver and Enhance High Quality Efficient Services and Infrastructure
Ensure Compliance with Measure J and Manage Levi's Stadium

BACKGROUND

On May 6, 2014, the City Council approved a standard agreement with the California Highway Patrol (CHP) for traffic management and support services provided by the CHP for special events at Levi's Stadium. CHP duties include traffic management, air operations, SWAT, bicycle patrol, and crowd control. Through the Standard Agreement including the State's mandatory "General Terms and Conditions" (some of which are inapplicable to the present agreement) the City is required to indemnify and defend the State for claims resulting from injury or damage caused by City employees in connection with CHP's services. The terms and conditions of the agreement are not negotiable.

The term of the original agreement was July 1, 2014 through June 30, 2016, totaling \$1,724,811. When this agreement was initially established, the Police Department estimated 23 events that would require CHP services. On July 14, 2015, the City Council approved Amendment No. 1 to increase the funding of the original agreement by \$1,000,000 to \$2,724,811 over the same term to address the increase in events over the preliminary projection. The amendment addressed the revised projection of 45 events scheduled during the contract period.

On July 19, 2016, the City Council approved Amendment No. 2 to extend the term of the agreement with CHP for an additional 24 months, retroactive to June 30, 2016 and extending through June 30, 2018. Amendment No. 2 increased the agreement by \$1,700,000, for a total not to exceed amount of \$4,424,811.

On June 12, 2018, the City Council approved Amendment No. 3 to extend the term of the agreement with CHP from July 1, 2018 through June 30, 2020. Amendment No. 3 added \$1,500,000 for a maximum amount not to exceed \$5,924,811.

On June 23, 2020, the City Council approved Amendment No. 4 which added \$2,500,000 to the agreement, extended the term from July 1, 2020 through June 30, 2022 and adjusted the maximum amount not to exceed \$8,424,811.

Most recently, Amendment No. 5 extended the term of the agreement for traffic management and support related services from June 30, 2022 to June 30, 2024 and added \$2,875,189 for a total not to

exceed amount of \$11,300,000. All other terms and conditions remained the same; during this timeframe the Police Department continued to receive the CHP's annual salary and benefit overtime rate sheet by classification according to the collective bargaining agreement.

The costs associated with the CHP's services at the Stadium are required to be reimbursed to the City in accordance with Measure J. From July 2014 through March 2024, approximately \$9,370,047 in CHP services have been paid and subsequently reimbursed.

A new Standard Agreement with CHP for traffic management and law enforcement services for Levi's Stadium events with a not to exceed amount of \$5,000,000 over a four-year term is being presented to the Council for its approval.

DISCUSSION

Levi's Stadium has been the host to 185 public events with an attendance of over 20,000 since its opening in August 2014.

As the lead law enforcement agency, the Police Department secures local, State, and Federal resources, as necessary, to implement security measures, and corresponding contingency plans, in anticipation of the events currently planned at Levi's Stadium. This includes, but is not limited to, mitigating traffic congestion for event patrons and local traffic, providing a safe venue for attendees, performers, and stadium personnel as well as preventing intrusion into neighborhoods while maintaining access to adjacent business properties. The Police Department is also the lead in obtaining the necessary approvals required to enter into agreements with law enforcement partners.

The CHP has been an essential public safety partner in the implementation of the traffic management and event plans for Levi's Stadium events. Since 2014, CHP has provided vehicles, radios, personnel, and other necessary equipment for traffic management and related support services on Highway 101 and Route 237, which they have jurisdiction over. In addition, CHP is also instrumental in helping the Police Department obtain threat intelligence information.

The number of CHP personnel necessary to implement the plans varies according to the event type, day and time, anticipated attendance, dignitaries present, intelligence gathered, and potential threat(s). The standard agreement requires compensation to be paid according a CHP hourly employee cost (e.g., salary, benefits, overhead, etc.) from their home station to their return to the home station, including mileage.

In Fiscal Year 2023/24, there were 12 NFL events and six non-NFL events. The average CHP cost was approximately \$49,576 per NFL event and \$48,153 per non-NFL event.

As of the writing of this report, there are 14 events scheduled for Fiscal Year 2024/25 (10 NFL events and four non-NFL events); it is unknown how many additional event(s) may be scheduled over this timeframe. In addition, there are seven significant events scheduled (e.g., Super Bowl LX and FIFA World Cup 2026) for Fiscal Years 2025/26 and 2026/27; a separate Agreement will be crafted to address these events with the CHP and other entities as needed. As written, this new Agreement is for traffic management and law enforcement services over a four-year term from July 1, 2024 to June 30, 2028 with a not to exceed amount of \$5,000,000. All other terms and conditions will remain the same, and the City will reimburse CHP based on the agency's rates, including any rate increases in salary and benefits which are governed by the agency's respective collective bargaining agreements.

Below is a schedule of upcoming major events at Levi's Stadium:

DAY / DATE	EVENT
July 2, 2024	COPA America - Brazil vs Colombia
July 17, 2024	Rolling Stones
July 24, 2024	Chelsea FC vs Wrexham AFC
July 27, 2024	San Jose Earthquakes vs Chivas Guadalajara
August 18, 2024	San Francisco 49ers vs New Orleans Saints
September 9, 2024	San Francisco 49ers vs New York Jets
September 29, 2024	San Francisco 49ers vs New England Patriots
October 6, 2024	San Francisco 49ers vs Arizona Cardinals
October 20, 2024	San Francisco 49ers vs Kansas City Chiefs
October 27, 2024	San Francisco 49ers vs Dallas Cowboys
November 17, 2024	San Francisco 49ers vs Seattle Seahawks
December 8, 2024	San Francisco 49ers vs Chicago Bears
December 12, 2024	San Francisco 49ers vs Los Angeles Rams
December 30, 2024	San Francisco 49ers vs Detroit Lions
February 2026	Super Bowl LX*
June 13, 2026	FIFA World Cup 2026*
June 16, 2026	FIFA World Cup 2026*
June 19, 2026	FIFA World Cup 2026*
June 22, 2026	FIFA World Cup 2026*
June 25, 2026	FIFA World Cup 2026*
July 1, 2026	FIFA World Cup 2026*

* As noted above, a separate agreement with the CHP and other agencies will be drafted to support these events.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

This Standard Agreement with CHP for traffic management and law enforcement services for Levi's Stadium events is for a not to exceed amount of \$5,000,000 over four years, July 1, 2024 - June 30, 2028, to provide necessary traffic management and related support services at the venue. Funding for this agreement has been factored into the Fiscal Year 2024/25 Non-Departmental operating budget appropriation, subject to approval. For future Fiscal Years, funding for this agreement will likewise be subject to the appropriation of funds.

Per Measure J, the City cannot be liable for the obligations of the Stadium Authority, including operating expenses. As such, all public safety services for Levi's Stadium events provided by or paid for by the City, including specialized traffic management and law enforcement services provided through this Agreement, will be reimbursed to the City by the 49ers and Stadium Authority for their respective events.

COORDINATION

This report was coordinated with the Finance Department and City Attorney's Office.

RECOMMENDATION

Authorize City Manager to execute the Standard Agreement with the California Highway Patrol for traffic management and law enforcement services for Levi's Stadium events, in an amount not to exceed \$5,000,000 over a four-year term (July 1, 2024 - June 30, 2028).

Reviewed by: Pat Nikolai, Chief of Police

Approved by: Jovan D. Grogan, City Manager

ATTACHMENTS

1. Proposed State of California Standard Agreement
2. Exhibit C General Terms and Conditions (GTC 04/2017)

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Business Services Section
Contract Services Unit
601 N. 7th Street
Sacramento, CA 95811
(916) 843-3610
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



May 30, 2024

City of Santa Clara (Santa Clara Police Department)
601 El Camino Real
Santa Clara, CA 95050

Subject: Agreement Number [24R340002-0](#)

Congratulations, you have been awarded the agreement. Please complete the following marked item(s) and return to the above address within ten (10) business days:

- STD. 213, Standard Agreement with attached exhibits. Sign the first page of the STD. 213 and email back to Contract Analyst.
- STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- STD. 210, Short Form Contract. Sign and return both copies.
- STD. 204, Payee Data Record. Complete and return.
- CCC, Contractor Certification Clauses. Complete and return.
- Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement. STD. 807, Payment Bond. Complete and return one copy.
- CHP 28, Voluntary Statistical Data. Complete and return.
- CHP 78V, Conflict of Interest & CHP 116, Darfur Certification
- Letter of Agreement. Sign and return both copies.

Contract status.

- The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- The enclosed approved agreement is for your records. You are now authorized to provide services.

KELLIE AU
Contract Analyst

Enclosures



Safety, Service, and Security

An Internationally Accredited Agency

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER
24R340002

PURCHASING AUTHORITY NUMBER (If Applicable)

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

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTOR NAME

City of Santa Clara

2. The term of this Agreement is:

START DATE

07/01/2024

THROUGH END DATE

06/30/2028

3. The maximum amount of this Agreement is:

\$5,000,000.00 (Five Millions Dollars and Zero Cents)

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C *	General Terms and Conditions (GTC) 04/2017	*
+ - Exhibit D	Special Terms and Conditions	2

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

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

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

CONTRACTOR

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

City of Santa Clara

CONTRACTOR BUSINESS ADDRESS 601 El Camino Real	CITY Santa Clara	STATE CA	ZIP 95050
PRINTED NAME OF PERSON SIGNING	TITLE		
CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED		

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTING AGENCY ADDRESS 601 North 7th Street	CITY Sacramento	STATE CA	ZIP 95811
PRINTED NAME OF PERSON SIGNING	TITLE		
CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)		

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. The Contractee, City of Santa Clara agrees to reimburse the Department of California Highway Patrol (CHP) for costs associated with traffic control related services for planned events at the Levi's Stadium provided by the CHP San Jose Area office.
2. The services shall be provided during:

The hours of duty performed by CHP Peace Officer(s) under this Agreement are those mutually agreed upon by the Project Representatives listed below, or designees. Any changes to the proposed plan such as additional hours, dates, and sites for traffic control can be requested and/or on an "as needed" basis and must be mutually agreed upon by the local CHP command and the City of Santa Clara.

3. The services shall be provided at:

Levi's Stadium
4900 Marie P Debartolo Way
Santa Clara, CA 95054

4. The Project Representatives during the term of this Agreement will be:

STATE AGENCY	CONTRACTEE		
Department of California Highway Patrol	City of Santa Clara		
NAME	NAME		
Sean Fitzgerald, Lieutenant	Patrick Nikolai, Chief of Police		
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	FAX NUMBER
(408) 961-0900	sfitzgerald@chp.ca.gov	(408) 615-4890	(408) 261-9165

Direct all inquiries to:

STATE AGENCY	CONTRACTEE
Department of California Highway Patrol	City of Santa Clara
SECTION/UNIT	SECTION/UNIT
Business Services Section/CSU	Santa Clara Police Department
ATTENTION	ATTENTION
Kellie Au, Contract Analyst	Richard Fitting, Captain
ADDRESS	ADDRESS
601 North 7 th Street Sacramento, CA 95811	601 El Camino Real Santa Clara, CA 95050
TELEPHONE NUMBER	EMAIL
(916) 843-4344	Kellie.au@chp.ca.gov
TELEPHONE NUMBER	EMAIL
(408) 615-4804	Rfitting@santaclaraca.gov

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK (Continued)

4. Detailed description of work to be performed:

- A. CHP San Jose Area office shall provide CHP Peace Officer(s) with vehicles and coordinate traffic control. CHP Peace officer(s) may assist with other public safety needs, including but not limited to fixed or mobile positions to support law enforcement event operations. Should the CHP San Jose Area be unable to fill the necessary staffing, the shortage of CHP Peace Officers will be utilized from out-of-Area uniformed personnel.
- B. The traffic enforcement service to be performed by CHP Peace Officer(s) under this Agreement, including the standards of performance, discipline and control thereof, shall be the responsibility of CHP.
- C. It is understood by City of Santa Clara that billing of CHP Peace Officer(s) time shall be from portal to portal (CHP Area office to the service location and return to CHP Area office) except as specified in Item D.
- D. If the CHP Peace Officer(s) has reported to the assigned location and has worked less than four (4) hours, City of Santa Clara agrees to pay every assigned CHP Peace Officer(s) a minimum of four (4) hours overtime. Exception: This does not apply to those cases when the hours worked is part of an extended shift.
- E. If the CHP Peace Officer(s) report(s) to the assigned service location and if for any reason CHP reassigns the Peace Officer(s) away from the service location, City of Santa Clara will be billed only for the Peace Officer(s) actual time incurred from the CHP Area office to the service location and for the time spent at the assigned service location covered under this Agreement.

5. CANCELLATION

- A. City of Santa Clara shall not be charged for service cancellations made more than twenty-four (24) hours prior to the scheduled assignment.
- B. City of Santa Clara agrees that if service cancellation is made within twenty-four (24) hours prior to the scheduled assignment and the assigned CHP Peace Officer(s) cannot be notified of such service cancellation, a minimum of four (4) hours overtime shall be charged for each assigned CHP Peace Officer.
- C. City of Santa Clara agrees that if service cancellation is made within 24 hours prior to the scheduled assignment and CHP officer(s) is notified of such service cancellation, City of Santa Clara shall only be charged a short notice service cancellation fee of \$50.00 per assigned CHP Peace Officer(s).
- D. All service cancellation notices to CHP must be made during normal CHP business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays.
- E. The CHP agrees to make reasonable efforts to notify the assigned CHP Peace Officer(s) of the service cancellation.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

A. The CHP shall provide City of Santa Clara with an itemized invoice which details all CHP costs for traffic control services under this Agreement.

Monthly itemized invoices will be submitted in duplicate to:

City of Santa Clara
Santa Clara Police Department
601 El Camino Real
Santa Clara, CA 95050

Attn: Jenifer Silveria, Office Specialist
Phone: (408) 615-4814

City of Santa Clara agrees to pay CHP within thirty (30) days after the date of the invoice.

B. In consideration for the traffic control services contained here, the City of Santa Clara agrees to reimburse the CHP upon receipt of an itemized invoice, for both the actual hours worked by CHP Peace Officer(s) (at the overtime rate described below), and at the time services are provided. The rates indicated in this Agreement are for estimate purposes only. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event the CHP is granted a rate increase, the City of Santa Clara shall pay the increased rate. The following information is the CHP's Peace Officer(s) overtime and mileage rates effective Fiscal Year 23/24, until superseded:

<u>CLASSIFICATION</u>	<u>OVERTIME RATE</u>
CHP Officer	\$ 122.51 per hour
CHP Sergeant	\$ 149.05 per hour
M/C Sergeant	\$ 154.98 per hour
Pilot Officer	\$ 143.13 per hour
Flight Officer	\$ 128.01 per hour
Airplane	\$ 850.62 per hour
CHP Automobile	\$ 1.66 per mile
CHP Motorcycle	\$ 1.60 per mile

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. The CHP and City of Santa Clara agree this Agreement may be canceled by either party with thirty (30) days advance written notice.
2. In the event of an emergency, this Agreement may be canceled by either party without prior notice.
3. The CHP and City of Santa Clara, agree that this Agreement may be amended by written mutual consent of the parties hereto.
4. Unforeseen events may require CHP Peace Officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement, to reflect the actual costs incurred.
5. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at state expense, which are directly related to the services provided herein, but only to the extent such supplies or additional equipment are specifically requested in writing by City of Santa Clara or such need for repair or replacement of property arises directly from City of Santa Clara gross misconduct or willful negligence with respect to the property.
6. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or on behalf of the Department, informal squad club, or other local funds.
7. City of Santa Clara agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy and records and supporting documentation pertaining to the performance of this Agreement. City of Santa Clara agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. City of Santa Clara agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, City of Santa Clara agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et CCR Title 2, Section 1896).
8. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative) of each organization for joint resolution.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS (Continued)

9. The City of Santa Clara agrees to provide CHP with a resolution, motion, order or ordinance of the governing body, which authorizes execution of this Agreement, and indicates the individual who is authorized to sign the Agreement on behalf of City of Santa Clara.

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO**

REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full-time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. **SWEATFREE CODE OF CONDUCT:**

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. **DOMESTIC PARTNERS**: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. **GENDER IDENTITY**: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all contractors that are not another state agency or other governmental entity.

General Terms and Conditions (GTC 04/2017)

EXHIBIT C

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

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

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

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

13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
 - a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. **CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
 - a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. **PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. **SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
 - a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

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

