

FULLY EXECUTED

AGREEMENT NUMBER

16-T4181

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

Department of Toxic Substances Control

CONTRACTOR'S NAME

Magnus International Trade Services Corp.

2. The term of this Agreement is: November 13, 2017 through June 30, 2018

3. The maximum amount of this Agreement is: \$ 108,144.00
One Hundred Eight Thousand One Hundred Forty-Four Dollars and No 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.

Exhibit A – Scope of Work 5 page(s)

Exhibit B – Budget Detail and Payment Provisions 7 page(s)

Exhibit C* – General Terms and Conditions GTC 04/2017

Check mark one item below as Exhibit D:

☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 7 page(s)

☐ Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions 2 page(s)

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 <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

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

Magnus International Trade Services Corp.

BY (Authorized Signature)



DATE SIGNED(Do not type)

10/27/2017

PRINTED NAME AND TITLE OF PERSON SIGNING

Richard Antoine, President

ADDRESS

1313 N Grand Ave #280
Walnut, CA 91789

STATE OF CALIFORNIA

AGENCY NAME

Department of Toxic Substances Control

BY (Authorized Signature)



DATE SIGNED(Do not type)

11/8/2017

PRINTED NAME AND TITLE OF PERSON SIGNING

Ed Scholte, Procurement and Contracting Officer

ADDRESS

1001 I Street, P.O. Box 806 Sacramento, CA 95812

*California Department of General
Services Use Only*

☒ Exempt per: DGS Exemption 40.06

1. The Contractor, Magnus International Trade Services Corp., agrees to enter into a Contract with the Department of Toxic Substances Control (DTSC), to provide translation services to communicate information and obtain feedback on work that is either proposed or ongoing related to the Exide project. The term of this Contract is through June 30, 2018 for an amount not to exceed \$108,144.00. This contract may be amended in writing upon mutual agreement by both parties.
2. The DTSC Contract Manager and Contractor Representative during the term of this Contract will be:

Contract Manager

Jim Austreng
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826
Phone: (916) 255-6622
James.Austreng@dtsc.ca.gov

Contractor Representative

Richard Antoine
President
Magnus International Trade Services Corp.
1313 N Grand Ave #280
Walnut, CA 91789
Phone: (909) 718-1188
rantoine@magnuscorp.com

3. The DTSC Project Manager and Contractor's Representative for this Contract will be:

Project Manager

Hortensia Muniz
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826
Phone: (916) 255-6632
Hortensia.Muniz-Ghazi@dtsc.ca.gov

Project Representative

Sophie Su
Magnus International Trade Services Corp.
1313 N Grand Ave #280
Walnut, CA 91789
Phone: (909) 718-1168
ssu@magnuscorp.com

Contract Administrator

Carlos Aceituno
Department of Toxic Substances Control
1001 I Street, PO Box 806
Sacramento, California 95812-0806
Phone: 916.324.1942
Carlos.Aceituno@dtsc.ca.gov

4. The above Managers/Representatives may be changed at any time upon written notification to each party with a copy to DTSC's Contract Administration Unit.

5. **Background**

DTSC's Public Participation Program ensures that communities have an opportunity to actively participate in DTSC's decision-making process. Law, statute, and policy mandate a community involvement program that creates and promotes a 2-way dialog with the public when DTSC oversees cleanup at a hazardous waste site, reviews permit applications, or engages in other regulatory activities. Moreover, DTSC recognizes that meaningful public involvement ultimately results in better decisions.

DTSC will conduct public meetings, workshops and/or hearings regarding the Exide Technologies Inc. site. Community meetings will focus on proposed activities at the site or facility in addition to covering information such as the results of preliminary research or testing or activities being conducted at the site by DTSC. Subsequent meetings may focus on investigation data, results, health issues, or proposed decisions.

DTSC's goal is to provide outreach using information that is understandable and accessible to the public. In pursuit of this goal, DTSC strives to conduct outreach meetings in languages specific to the communities it serves and at times and locations that are convenient to those communities. Also, DTSC emphasizes early and continuing public involvement throughout the process.

In order to comply with the Dymally-Alatorre Bilingual Services Act (1973), DTSC is required to provide translated materials and serve monolingual customers in languages other than English. DTSC supports this initiative by generating and providing public outreach documents such as Community Updates (fact sheets), public notices and work notices in the language appropriate to the community.

6. **Scope of Work**

1. **Translation Services**

- a) Translator services may include but not be limited to the translation of written materials, scripts, presentations, reports, tables, posters, fliers, letters, brochures, legal transcripts, State regulations, and meeting minutes.
- b) Translators must be able to translate technical, administrative, legal, and policy documents. Translators must be proficient in, but not limited to: engineering, environmental science, chemistry, wastewater, potable water, solid waste, geology, hydrology, hazardous waste, climate change, air quality, environmental health, environmental justice, public health, and tribal terminology.
- c) Languages to be translated will primarily be Spanish, and various dialects of the language as well as other languages as needed.
- d) Translators must have a valid certificate issued by the Judicial Council of the State of California and by the Administrative Office of the Court for the U.S. District Courts; Certification by the American Translators Association is preferred. The Contractor shall provide verification of translators' certification for each request to be included in the written estimate as defined in item (i) below.

- e) Translators must have at least three (3) years of experience translating information that includes, but is not limited to: videos, maps, reports, slide shows, layouts, and compact discs.
- f) The majority of requests may be "rush" service of 24 hours, and upon agreement, "extreme rush" same-day service. For "Oversized Documents", documents exceeding (8) pages in length and/or requiring additional attention by the Contractor (e.g. formatting), the Contractor and Contract Manager or an Authorized Designee will agree upon an alternative turn-around time in advance.
- g) DTSC Contract Manager or an Authorized Designee will request standard translation services in writing three (3) days prior to the date translation is needed. DTSC will provide the Contractor with a copy of the text to be translated. The text may be provided to the Contractor in hard copy or as an electronic file using, but not limited to MS Word, Page Maker, Power Point, Adobe Acrobat or Indesign. The Contractor shall only accept requests for service from DTSC's Contract Manager or an Authorized Designee.
- h) Translator services shall be performed for various documents ranging in size from one page to several hundred pages. "Standard" requests of documents fewer than eight (8) pages in length require a turn-around time of three (3) business days.
- i) The Contractor shall provide an acknowledgement receipt for all request for service submitted. Services are considered ordered upon Contractor's receipt of the request. Acknowledgement shall be provided electronically within two (2) business hours of the request. Should service not be available in the requested time, the Contractor must notify the DTSC Contract Manager within three (3) business hours of the request.
- j) The Contractor shall provide DTSC's Contract Manager and/or Authorized Designee a written estimate electronically, as well as by telephone, facsimile, or provide online access, within three (3) business hours of the request. DTSC's Contract Manager and the Contractor will establish provisional guidelines if a written estimate cannot be provided within the three (3) hour timeframe.
- k) At no time shall the Contractor change the content or meaning of the information unless requested in writing by DTSC. Contractor shall provide the required service to fulfill DTSC requests. DTSC may provide the Contractor a glossary of technical terms to use to ensure accuracy and precision of translated information.
- l) The Contractor shall provide the final product electronically directly to the DTSC Contract Manager, with a copy to the DTSC staff identified as the requesting staff, who initiated the request with the Contract Manager. Final products will be submitted by the Contractor electronically as identified in the request for service.
- m) The Contractor shall review all final documents, including those of subcontractors, for identification and correction of errors, and proper format, prior to forwarding to DTSC. Documents containing errors will be corrected at the Contractor's sole expense.

2. Interpreting Services

- a) Interpretive Services may include, but not limited to real-time interpretation at any function necessary for DTSC to conduct business such as at conferences, discussions, hearings, workshops, town hall forums, and public meetings.
- b) The services provided by the Contractor shall include scheduling and managing of interpreter's requests, the interpreter, and incidental expenses. Types of events when Interpreters will be required may include, but not be limited to, committee and department meetings, training and informational sessions, seminars (both technical and non-technical), community meetings and hearings, and panels. The Interpreters must be able to perform services throughout the State of California at various statewide locations, but primarily these proceedings will take place near Vernon, California, and its surrounding communities.
- c) These meetings are technical in nature and include technical terminology. The Contractor shall provide one (1) to two (2) Interpreters at each meeting/event as needed and specified by DTSC's Contract Manager or an Authorized Designee upon request of service. At minimum, one (1) Interpreter performing interpretation at the job site must have a valid certificate issued by the Judicial Council of the State of California and by the Administrative Office of the Court for the U.S. District Courts. The Contractor shall provide verification of translators' certification for each request to be included in the written estimate as defined in item (i) below.
- d) Interpreters must have at least three (3) years of experience translating information that includes, but is not limited to, videos, maps, reports, slide shows, layouts, and compact discs.
- e) Interpreters must be proficient in, but not limited to tribal, engineering, environmental science, chemistry, wastewater, potable water, solid waste, geology, hazardous waste, air quality, environmental health, environmental justice, climate change, public health, and law terminology.
- f) Languages to be translated will primarily be Spanish, and various dialects of the language.
- g) DTSC's Contract Manager or an Authorized Designee shall notify the Contractor, in writing, no less than three (3) business days prior to the date interpretation services are required for "Standard" requests. DTSC's Contract Manager or an Authorized Designee shall identify the date, time, location, required languages, and any other pertinent information. The Contractor shall confirm all details within four (4) business hours of the request, which will include a written cost estimate for work requested. In addition, DTSC may request "Rush" interpretive services to be conducted within 24 hours. Should service not be available in the requested time, the Contractor must notify the DTSC Contract Manager within three (3) business hours of the request.

- h) The Contractor shall provide DTSC's Contract Manager or Authorized Designee the written cost estimate electronically, by telephone, facsimile, or provide online access. DTSC's Contract Manager and the Contractor will establish provisional guidelines if a cost estimate cannot be provided within the four (4) hour confirmation timeframe.

3. Labor and Equipment

- a) The Contractor shall provide DTSC with the necessary labor and equipment to provide professional certified simultaneous (real-time) verbal interpretative services. This includes interpreter station, transmitter, headsets, public address (PA) system, speakers, microphones, computer, printer, projector and projection screen, and any other equipment required for verbal interpretations.
- b) The Contractor shall be responsible for managing and coordinating the Contractor resources, and is fully responsible for all maintenance and service required of the equipment used by the Contractor.
- c) Certified interpreter(s) are required to be present for the duration of the event. The Interpreter must arrive at the designated work location no less than one (1) hour prior to the job start time to set up and test equipment.
- d) The Interpreter shall provide DTSC or the person presiding over the meeting a business card or other means of identification.
- e) Interpreter services shall be provided during various hours throughout the week (Monday through Friday) and on weekends (Saturday and Sunday), upon request. The Interpreter(s) must be available to work after 5:00 p.m. with one day's notice.

4. Travel

The Contractor is responsible for making necessary travel arrangements. Reimbursement for travel and per diem shall be reimbursed for actual travel costs incurred, not to exceed the rates set forth by the California Department of Human Resources (CalHR) at <http://www.calhr.ca.gov/employees/Pages/travel-personal-vehicle.aspx>. No travel expenses will be paid prior to the actual date and time of travel.

Travel time incurred by Translators, Interpreters and Technicians to and from the event shall not be reimbursed. The Interpreter(s) traveling a distance over 50 miles may claim expenses only with prior approval from DTSC. The proper paperwork (State Travel Expense Claim [TEC] Form) must be completed, as specified by the requestor, with appropriate receipts affixed for reimbursement. Travel claims must be submitted within 30 days of travel incurred.

Travel outside of the State of California shall require prior authorization in writing from DTSC's Contract Manager.

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment.

- A. Contractor will be paid upon satisfactory completion of work and receipt of a proper and complete invoice from the Contractor. Contractor shall bill the State in arrears no more often than monthly for actual expenditures incurred in accordance with rates specified and by this reference made part hereof.
- B. Invoices shall be submitted in duplicate: one original hard copy on Contractor's letterhead and one copy in PDF format. The invoice shall include the Contract number and dates of service covered. Submit all invoices to:

Department of Toxic Substances Control
Attn: Contracts Unit
P. O. Box 806, Floor 21-5
Sacramento, California 95812-0806

2. Budget Contingency Clause

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

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927. An incomplete/disputed invoice will be returned to the Contractor per Government Code, Chapter 4.5, Section 927.6. Time specified for prompt payment in Government Code, Chapter 4.5, Section 927.4 commences upon submittal of a completed/undisputed invoice.

Budget Detail

	Cost per event	Description	1Q	2Q	3Q	4Q	Est. Total
Translation Services			\$ 22,536	\$ 31,536	\$ 22,536	\$31,536	\$ 108,144
Translation Services of community updates (charges are \$.24 per word, average 400 words per page, times 3 pages = \$288)	\$ 288	Average Cost \$288 per 3 page document; Translation of Monthly Community Updates	3	3	3	3	12
Translation Services of materials required for each meeting (average 400 words per page @\$.24 per word, document list in column I)	\$ 3,168	Average cost to translate documents for each meeting \$3,168. Documents required for each meeting include: Post card meeting announcements (1 page), Power Point Presentation for AG/TWVS and Public Meetings (estimated 20 pages), Meeting agendas (1 page), Meeting Summaries (3 pages), Meeting Action Item List (3 pages), Community Update Mailouts (2 pages), Blood Lead Testing Flyer (1 page), Access Agreements (2 pages) total pages 33 page x 400 words per page x \$.24 = \$3,168	4	4	4	4	16
Interpreters & PA equipment required for each meeting, there will be 6 bi-monthly AG Technical Working Sessions per year	\$ 3,000	Average cost per meeting is \$3,000 x 6 = \$18,000 per FY	1	2	1	2	6
meeting, there will be 4 quarterly Public Meetings per year	\$ 3,000	Average cost per meeting is \$3,000 x 4 = \$12,000 per FY	1	1	1	1	4
Interpreters & PA Equipment required for each meeting, there will be 6 CEQA EIR associated meetings per year; 2 Public Comment Meetings; 2 Public Hearings; and 2 Final Decision Meetings)	\$ 3,000	Average cost per meeting = \$3,000 x 6 = \$18,000 per FY; Estimated needs include: 6 CEQA EIR associated meetings per year; 2 Public Comment Meetings; 2 Public Hearings; and 2 Final Decision Meetings		2		2	4
Small Neighborhood Outreach Meetings - this could include Contingency Meetings, Neighborhood Meetings, 1 per quarter	\$ 3,000	Estimated 1 Small Outreach Meeting per quarter	1	1	1	1	4

Cost Sheet 1

"Standard" Interpreting Services			Rate
Standard on-site Interpreting	Standard hours (8 a.m. – 6 p.m.)	First 90 minutes	\$ 345
		Additional 30 minutes (each)	\$ 60
	After hours	First 90 minutes	\$ 445
		Additional 30 minutes (each)	\$ 60
Full-day on-site Interpreting	Standard hours	Per 4 hours	\$ 675
	After hours	Additional 30 minutes (each)	\$ 60
	Minimum charge	per day (Mon – Fri)	\$ 675
		per day Saturday	\$ 875
Technician	Hourly Rate		\$ 85/ hour
Equipment Costs (rates all inclusive; For example, shipping and handling)	Interpreter Station		\$ 325/ meeting
	Transmitter		100/ meeting
	Compatible Sound System (including speakers)		\$ 100/ meeting
	Cordless Microphone		\$ 80 ea.
	Corded Microphone		\$ 10 ea.
	Lavalier Microphone		\$ 80 ea.
	Other interpretive equipment as needed, which could include: Interpreting Booth, Mixer		\$ 80 ea.
	Projector		\$ 175 ea.
	Projection screen		\$ 80 ea.
	Laser pointers		\$ 15 ea.
	Headsets and Receivers		\$ 5 ea.

Travel costs, including mileage and per diem, shall be at the rates established by the State of California (<http://www.calhr.ca.gov/employees/Pages/travel-personal-vehicle.aspx/>)

All specified labor rates shall be fully-loaded, to include costs for, but not necessarily limited to, profit, project management, administrative and clerical support, communications, and copying.

The Interpreter and/or Technician is expected to provide the standard equipment. Non-standard equipment will be negotiated as to need and cost. All equipment costs are for rental only.

Cost Sheet 2

"Rush" Interpreting Services			Rate
Standard on-site Interpreting	Standard hours (8 a.m. – 6 p.m.)	First 90 minutes	\$ 380
		Additional 30 minutes (each)	\$ 70
	After hours	First 90 minutes	\$ 490
		Additional 30 minutes (each)	\$ 70
Full-day on-site Interpreting	Standard hours	Per 4 hours	\$ 742
	After hours	Additional 30 minutes (each)	\$ 70
	Minimum charge	per day (Mon – Fri)	\$ 742
		per day Saturday	\$ 962
Technician	Hourly Rate		\$ 85/ hour
Equipment Costs (rates all inclusive; For example, shipping and handling)	Interpreter Station		\$ 325/ meeting
	Transmitter		\$100/ meeting
	Compatible Sound System (including speakers)		\$ 100 / meeting
	Cordless Microphone		\$ 80 ea.
	Corded Microphone		\$ 10 ea.
	Lavalier Microphone		\$ 80 ea.
	Other interpretive equipment as needed, which could include: Interpreting Booth, Mixer		\$ 80 ea.
	Projector		\$ 175 ea.
	Projection screen		\$ 80 ea.
	Laser pointers		\$ 15 ea.
	Headsets and Receivers		\$ 5 ea.

Travel costs, including mileage and per diem, shall be at the rates established by the State of California (<http://www.calhr.ca.gov/employees/Pages/travel-personal-vehicle.aspx/>)

All specified labor rates shall be fully-loaded, to include costs for, but not necessarily limited to, profit, project management, administrative and clerical support, communications, and copying.

The Interpreter and/or Technician is expected to provide the standard equipment. Non-standard equipment will be negotiated as to need and cost. All equipment costs are for rental only.

Cost Sheet 3

“Standard” Translation Services		Rate*
Translation Services		\$. / word
Required Languages	English to Armenian	\$ 0.26 / word
	English to Cantonese	\$ 0.30 / word
	English to Farsi	\$ 0.35 / word
	English to Hmong	\$ 0.32 / word
	English to Korean	\$ 0.35 / word
	English to Mandarin	\$ 0.32 / word
	English to Arabic	\$ 0.41 / word
	English to Russian	\$ 0.37 / word
	English to Spanish (customized to the dialect of that community)	\$ 0.14 / word
	English to Tagalog	\$ 0.40 / word
	English to Vietnamese	\$ 0.33 / word
	English to Japanese	\$ 0.33 / word
Languages that might be requested	English to Hindi	\$ 0.40 / word
	English to Mixtec	\$ 0.60 / word
	English to Nahuatl	\$ 0.60 / word
	English to Pashto	\$ 0.37 / word
	English to Portuguese	\$ 0.30 / word
	English to Punjabi	\$ 0.37 / word
	English to Sindhi	\$ 0.60 / word
	English to Somali	\$ 0.49 / word
	English to Thai	\$ 0.30 / word
	English to Urdu	\$ 0.29 / word
	English to Zapotec	\$ 0.60 / word
	Braille	\$ 100.00 / page

*All specified labor rates shall be fully-loaded, to include costs for, but not necessarily limited to, profit, project management, administrative and clerical support, communications, and copying.

For evaluation purposes, the Total Bid Amount will be utilized to determine the lowest, responsible bidder. The rates quoted in the Rate Cost Sheets shall be binding throughout the term of the Contract.

Cost Sheet 4

"Rush" Translation Services		Rate*
Translation Services		\$. / word
Required Languages	English to Armenian	\$ 0.34 / word
	English to Cantonese	\$ 0.40 / word
	English to Farsi	\$ 0.46 / word
	English to Hmong	\$ 0.42 / word
	English to Korean	\$ 0.46 / word
	English to Mandarin	\$ 0.42 / word
	English to Arabic	\$ 0.54 / word
	English to Russian	\$ 0.48 / word
	English to Spanish (customized to the dialect of that community)	\$ 0.28 / word
	English to Tagalog	\$ 0.52 / word
	English to Vietnamese	\$ 0.44 / word
	English to Japanese	\$ 0.44 / word
Languages that might be requested	English to Hindi	\$ 0.52 / word
	English to Mixtec	\$ 0.78 / word
	English to Nahuatl	\$ 0.78 / word
	English to Pashto	\$ 0.48 / word
	English to Portuguese	\$ 0.40 / word
	English to Punjabi	\$ 0.48 / word
	English to Sindhi	\$ 0.78 / word
	English to Somali	\$ 0.64 / word
	English to Thai	\$ 0.40 / word
	English to Urdu	\$ 0.38 / word
	English to Zapotec	\$ 0.78 / word
	Braille	\$ 150.00 / page

*All specified labor rates shall be fully-loaded, to include costs for, but not necessarily limited to, profit, project management, administrative and clerical support, communications, and copying.

For evaluation purposes, the Total Bid Amount will be utilized to determine the lowest, responsible bidder. The rates quoted in the Rate Cost Sheets shall be binding throughout the term of the Contract.

Cost Sheet 5

“Extreme Rush/Oversized Document” Translation Services		Rate
Translation Services		\$. / word
Required Languages	English to Armenian	\$ 0.39 / word
	English to Cantonese	\$ 0.47 / word
	English to Farsi	\$ 0.54 / word
	English to Hmong	\$ 0.49 / word
	English to Korean	\$ 0.54 / word
	English to Mandarin	\$ 0.49 / word
	English to Arabic	\$ 0.63 / word
	English to Russian	\$ 0.56 / word
	English to Spanish (customized to the dialect of that community)	\$ 0.38 / word
	English to Tagalog	\$ 0.61 / word
	English to Vietnamese	\$ 0.51 / word
	English to Japanese	\$ 0.51 / word
Languages that might be requested	English to Hindi	\$ 0.61 / word
	English to Mixtec	\$ 0.91 / word
	English to Nahuatl	\$ 0.91 / word
	English to Pashto	\$ 0.56 / word
	English to Portuguese	\$ 0.47 / word
	English to Punjabi	\$ 0.56 / word
	English to Sindhi	\$ 0.91 / word
	English to Somali	\$ 0.75 / word
	English to Thai	\$ 0.47 / word
	English to Urdu	\$ 0.44 / word
	English to Zapotec	\$ 0.91 / word
	Braille	\$ 200.00 / page

*All specified labor rates shall be fully-loaded, to include costs for, but not necessarily limited to, profit, project management, administrative and clerical support, communications, and copying.

For evaluation purposes, the Total Bid Amount will be utilized to determine the lowest, responsible bidder. The rates quoted in the Rate Cost Sheets shall be binding throughout the term of the Contract.

SPECIAL TERMS AND CONDITIONS

Agreement Limits

Other than as specified herein, no document or communication passing between the parties shall be deemed a part of this Contract.

Approval of Work

Notwithstanding the Approval Clause in Exhibit C current General Terms and Conditions (GTC) this Agreement requires that all work performed shall be inspected, reviewed, and approved by the Contract Manager prior to payment. Payment for services is conditional upon Contractor's conformance to the requirements of the Statement of Work, Exhibit A. The State's acceptance shall not be unreasonably withheld. If any service performed is deemed not acceptable, the Contract Manager or designee shall advise the Contractor in writing what areas are not acceptable.

Assignment of Rights, Delegation of Duties

Contractor shall not transfer by assignment, delegation, subcontract, or notation the performance or benefits of this Agreement or any part thereof, except as provided herein, without the prior written approval of the State. State's consent to one or more assignments, delegations, or subcontracts hereunder shall not constitute a waiver or diminution of State's absolute right to consent to each and every subsequent assignment or subcontract. Contractor may not, without prior written consent of the State, assign any other right.

Audit

Notwithstanding the Audit Clause in Exhibit C in the current GTC, DTSC adds the following:

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 (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

Contractor shall comply with the above and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC § 10115.10.

Confidentiality

All data and information related to DTSC operations, which are designated confidential by DTSC or developed by the Contractor and deemed confidential by DTSC, shall be properly safeguarded and protected by the Contractor from unauthorized use and disclosure. At a

minimum, during non-working hours, DTSC paper and/or electronic documents, reference materials, or any materials related thereof shall be kept in a locked, secure place. All electronic data shall be password protected and secure at all times.

The Contractor and his/her employees are hereby considered agents only for confidential data purposes and will be liable under the State and Federal statutes for unauthorized disclosures.

The Contractor and all Subcontractors shall immediately notify DTSC of any request from a third party for disclosure of any information relating to this Agreement, including, but not limited to, subpoena, deposition proceedings, court order, or other legal action. Unless DTSC authorizes the disclosure of the information in writing, the Contractor shall use every means, to the maximum extent permitted by law and at no cost to the State, to protect the information from disclosure.

Conflict of Interest

The prospective Contractor shall disclose any financial, business, or other relationship with DTSC that may have an impact upon the outcome of this Agreement and/or any ensuing project to follow. The prospective Contractor shall also list current clients who may have a financial interest in the outcome of this project. This agreement also complies with Public Contract Code, (PCC) 10410 and 10411.

Copyrights and Ownership of Data

The State shall be the owner of all rights, title, and interest in, not limited to the copyright to, any and all data created, provided, or developed under this Agreement, whether or not published or produced. The copyright to any and all data created, provided, or developed under this Agreement belongs to the State from the moment of creation.

The State retains all rights to use, reproduce, distribute, or display any data created, provided, developed, or produced under this Agreement and any derivative products based on Agreement data, as well as all other rights, privileges, and remedies granted or reserved to a copyright owner under statutory and common-law copyright law. At any time the Contractor enters into an Agreement with another party in order to perform the work required under this Agreement, the Contractor shall require the Agreement to include language granting the State the copyright for any data created, provided, developed, or produced under the Agreement and ownership of any data not fixed in any tangible medium of expression. In addition, the Contractor shall require the other party to assign those rights to the State in a format prescribed by the State. For any data where the copyright is not granted to the State, the State shall retain a royalty-free, nonexclusive, and irrevocable license throughout the world to reproduce, to prepare derivative products, to distribute copies, to perform, to display, or otherwise use, duplicate, or dispose of such data in any manner for governmental purposes and to have or permit others to do so.

All data distributed under the terms of this Agreement and any reproductions of data shall include a notice of copyright in a place that can be visually perceived at the direction of DTSC. This notice shall be placed prominently on data and set apart from other matter on the page or medium where it appears. The notice shall state "Copyright" or "©", the year in which the work was created, and "DTSC". When space does not permit, and with advance approval of DTSC Contract Manager or his/her designee, "Department of Toxic Substances Control" may be

abbreviated "DTSC".

Dispute

Notwithstanding the current GTC and in compliance with PCC 10381, DTSC adds:

Except as otherwise provided, if Contractor disputes a decision of Contract Manager regarding the performance under this Agreement or other issue for which Contract Manager is authorized by this Agreement to make a binding decision Contractor shall provide written dispute notice to Contract Manager within fifteen (15) calendar days after the date of receipt of the decision of Contract Manager.

The written dispute notice required shall contain the following information: 1) the decision under dispute; 2) the reason Contractor believes the decision of the Contract Manager is in error; 3) identification of all documents and substance of all oral communication which support Contractor's position; and, 4) the dollar amount in dispute (if known).

Contract Manager shall issue a dispute decision within ninety (90) calendar days of receipt of the dispute notice. A copy of this decision shall be sent to Contractor by certified mail, Return Receipt Requested, or by any other method which provides evidence of receipt.

The decision of Contract Manager shall contain the following information: 1) a description of the dispute; 2) a reference to pertinent Agreement provisions; 3) a statement of the factual areas of agreement or disagreement; and, 4) a statement of Contract Manager's decision with supporting rationale.

The decision of Contract Manager shall be final and conclusive unless within thirty (30) calendar days from the date of receipt of Contract Manager's decision, Contractor files a notice of appeal addressed to the Director, Department of Toxic Substances Control.

In connection with any appeal proceeding under this Agreement, both parties shall be afforded an opportunity to be heard and to offer evidence and oral argument in support of their positions. The Director or his designee shall appoint one or more examiners to conduct appeal proceedings and to make recommendations to the Director or his designee as to the proper findings and conclusions to be reached in the appeal. During the pendency of any dispute, Contractor shall diligently continue all Agreement work and comply with all Contract Manager orders and directions.

Entire Agreement

This Agreement supersedes all prior agreements; oral or written, made with respect to the services provided herein.

Licenses

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) required by law for accomplishing any work required in connection with this Agreement.

In the event any license(s) expires at any time during the term of this agreement, Contractor

agrees to provide agency a copy of the renewed license(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

News Releases and Publicity

The Contractor shall not issue any news releases or make any statement to the news media regarding the operational procedures of this Agreement, the meetings or decisions related to this Agreement, or to the status of work related to this Agreement without prior written approval of DTSC.

Patent

If the development of an invention occurs during the terms of this agreement, the state reserves the rights to assignment and registration of such invention with the U.S. Patents Office. Permission by the State may be granted to inventor for application for Patent with all rights reserved in the State of California.

Payments

Payments to Contractor shall be considered to include reimbursement for all taxes paid by Contractor under this Agreement.

For purposes of time reporting, increments of more than fifteen minutes and up to thirty minutes will be considered one-half hour for those agreement rate categories based on an hourly rate. Overtime will be compensated at the hourly rate (straight time). No standby time will be compensated.

Personal Services

This agreement has complied with the Standards set forth in Government Code Section 19130(b), and Public Contract Code Section 10337.

Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any Subcontractors, and no Subcontractor shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its Subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any Subcontractor.

Professional Work

All work to be performed in accordance with all acceptable State standards.

Progress Reports

Contractor shall submit progress reports to the State Project Manager, as required, describing work performed, work status, work progress difficulties encountered, remedial action, and statement of activity anticipated subsequent to reporting period for approval prior to payment of invoices. Contractor to be reimbursed by invoicing, in detail, all costs and charges with Agreement Number and sending to designated address.

Release of Claims

The acceptance by the Contractor of final payment shall be and shall operate as a release to the State of all claims and all liability to the Contractor for everything done or furnished in connection with this Agreement and for every act and neglect of the State and others relating to or arising out of this Agreement.

Release of Data

The Contractor shall not release or disclose any work products created, produced, or developed pursuant to this Agreement to any person, except to Contractor personnel, attorneys, prospective vendors, Contractor's law firms, and other companies or individuals who are necessary for, and are to be directly involved in, the development, production, distribution of the data. Data include, but are not limited to drafts or works in progress. The Contractor shall employ reasonable procedures to protect these data from unauthorized use and disclosure. The State retains the right to approve any procedures employed by the Contractor to comply with this provision.

The Contractor shall not release or disclose to other persons any work/data created, produced, or developed pursuant to this Agreement, including but not limited to, drafts prior to DTSC approval of the final work product. The State retains the right to approve any procedures employed by the Contractor to comply with this provision.

Responsibilities Upon Termination (If awarded through the bidding process use Government Code (GC) 11010.5(b) and (a) if not)

After receipt of notification of termination of this Agreement, and except as otherwise specified by the State, the Contractor shall stop work under this Agreement on the date specified in the written notice of termination. In compliance with GC 11010.5(a), the Contractor shall do all of the following:

- a. Place no further orders for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Agreement that is not terminated.
- b. Assign to the State, effective on the date of termination, in the manner, and to the extent specified by the State, all of the rights, titles, and interests for the Contractor under the orders in which case the State has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and reduce any settlement amount determined by the amount paid for such orders.
- c. Settle all outstanding liabilities and all claims arising out of such termination of orders and with the approval or ratification of the State to the extent the State may require. The

State's approval or ratification shall be final for the purposes of this section.

- d. Upon effective date of termination of the Agreement and the payment by the State of all items properly chargeable to the State hereunder, Contractor shall transfer, assign, and make available to the State all property and materials belonging to the State, all rights and claims to any and all reservations.
- e. Take such action as may be necessary, or as the State may specify, to protect and preserve any property related to this Agreement which is in the possession of the Contractor and in which the State has or may acquire an interest.

Rights to Data

Notwithstanding any other provision of this Agreement or its Exhibits, Contractor and DTSC understand and agree that the provision entitled "Copyrights and Ownership of Data" governs all ownership right to data files and databases.

Severability

Should any provision of this Agreement be declared or found to be illegal, unenforceable, ineffective, or void, then each party shall be relieved of any obligations arising in such provision. All other provisions of this Agreement shall remain in effect.

Substitution of Subcontractors

After award of a contract, the successful Contractor must use the DVBE subcontractors and/or suppliers proposed in the bid/proposal to the state unless a substitution is requested. The Contractor must request the substitution in writing to the awarding agency and the awarding agency must approve the substitution in writing prior to commencement of any work by the proposed subcontractor/supplier. At a minimum, the substitution must include: a) a written description of the business enterprise to be substituted, including the DVBE certification status of the firm or if a non-DVBE subcontractor, the reason for this action; and b) a written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall contract that the substituted firm will perform.

Termination for Convenience

Notwithstanding the current GTC termination clause, DTSC adds the following:

DTSC may terminate performance of work under this agreement in whole or from time to time, in part, whenever DTSC in its discretion determines that such termination is in the best interests of the State. DTSC shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.

After receipt of a Notice of Termination, and except as directed by DTSC, the Contractor shall proceed with the following obligations, which shall apply immediately regardless of any delay in determining any payments due to the Contractor under this section. The Contractor shall:

- 1) Stop work as specified in the Notice of Termination.
- 2) Place no further subcontracts for materials, services, or facilities, except as necessary to

complete the continued portion of the agreement.

- 3) Terminate all subcontracts to the extent they relate to the work terminated.
- 4) Transfer title and make delivery to DTSC of all articles, materials, work in process, and other things held or acquired by Contractor in connection with the terminated portion of the agreement.
- 5) Resolve all outstanding liabilities arising from the termination of subcontracts and supplier agreements. The resolution of such liabilities shall be subject to DTSC approval or ratification.

Upon receipt of Notice of Termination, Contractor shall be paid, at the rates specified in the agreement, for work performed and expenses incurred prior to the effective date of the Notice of Termination for Convenience and accepted by State that could not by reasonable efforts of the Contractor have been avoided. In no event shall payment for these services and expenses exceed the maximum amount payable under the agreement. Contractor shall submit to DTSC within thirty (30) calendar days an invoice for the amount that represents the work performed and expenses incurred to the effective date of termination.

Termination for Default

State may terminate performance of work under this contract in whole, or in part, whenever Contractor or its subcontractors shall default in performance of this contract and shall fail to cure such default within a period of ten (10) days (or such longer period as the Contract Manager may allow) after receipt from the Contract Manager of a written notice specifying the default. Such termination shall be referred to herein as "Termination for Default".

If after notice of termination of this contract for default, it is determined by State or a court that Contractor was not in default or that Contractor's failure to perform or make progress in performance was due to causes beyond the control or was not caused by the error or negligence of Contractor, or any subcontractor, the notice of termination shall be deemed to have been issued as a termination for the convenience of State, and the rights and obligations of the parties shall be governed accordingly.

In the event State terminates this contract in full or in part as provided in this Termination for Default provision, State may procure, upon such terms and in such manner as the Contract Manager deems appropriate, supplies or services similar to those affected by the termination, and Contractor shall be liable to State for any excess costs reasonably incurred for such similar supplies or services. Contractor shall also be liable for excess administrative costs, if the failure to perform arises out of an intentional act or negligence of Contractor or its subcontractors. Contractor's refusal to accept or perform work assigned under the terms of this contract shall be deemed an intentional act in default of this contract.

Travel and Subsistence Payments

Reimbursement for necessary travel and per diem expenses shall be at rates not to exceed Department of Human Resources' Rules and Regulations. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. The Contractor shall provide travel and per diem receipts to the Department upon request.

ADDITIONAL PROVISIONS – DEFINITIONS

1. Accounting Practices and Direct Costs

These costs are allowable for reimbursement to the extent that they are accounted for under generally accepted accounting principles and are reasonable, allocable and accounted for in a manner consistent with the Contractor's established, usual, and accepted accounting practices in charging costs to its other activities. To be reasonable, direct costs cannot exceed that which would be incurred by an ordinary prudent person in the conduct of the competitive business. To be allocable, direct costs performed in the contract must not be otherwise charged to the Contract. Direct costs cannot be unlawful under any applicable statute and cannot be precluded from allow ability by any provision of the particular Contract of concern.

2. Procurement and Contracting Officer or Designee

The Department of Toxic Substances Control Official located in the Contract and Business Management Branch with delegated authority to sign Contracts and amendments. This individual has responsibility for all issues affecting or affected by the general terms and conditions of the Contract and any amendment(s) to the Contract.

3. Contract Manager

The State official designated in the Contract to represent the State in the ongoing management and administration of the Contract and Amendments issued under the authority of the Contract. This individual serves as the focal point for all Contracts between the State and the Contractor.

4. Contractor Representative

The individual designated by the Contractor to represent the Contractor in the ongoing management and administration of the Contract.

5. Contractor

The individual, partnership, association, or any combination thereof, who has entered into a contractual Contract with the State. The State may direct Contractors to work alone or in cooperation with other Contractors depending on the nature of the work required and the services provided by the Contractor.

6. Director

The Director of the Department of Toxic Substances Control, State of California, or Director's designee.

7. Excluded Costs- examples of costs which are not allowable:

- All mileage for ground transportation in excess of the rate prescribed by the State for reimbursement of non-represented employees.
- All advertisement costs.
- All bad debts including losses arising from uncollectible accounts and other claims, such as dishonored checks, employee advances, and related collection and legal costs.
- Unsupported general contingency costs.
- Entertainment costs to include amusements, social activities, and incidental activities relating thereto, such as meals, beverages, lodging, transportation and gratuities.
- All interest, fines and penalties paid on delinquent taxes.
- All other fines and penalties except those incurred as a direct result of compliance with a specific provision of the Contract.
- All gifts, contributions, and donations.
- Losses incurred under other Contracts.
- All Federal income taxes and Federal excess profit taxes.
- All taxes from which the Contractor could have obtained an exemption, but failed to do so.
- Litigation costs (filing fees, legal fees, expert witness fees, and all other costs involved in litigating claims in court or before an administrative board.
- Pre-Contract costs incurred prior to the effective date of the Contract directly pursuant to and in anticipation of the award of the Contract.
- Costs incurred preparing, submitting and supporting bids and proposals.
- Actual losses that could have been covered by permissible insurance or were expressly covered by self-insurance.

9. State

The State of California acting through the Department of Toxic Substances Control.

10. Subcontractor

A legal entity hired directly by Contractor to perform some designated portion of the work Contractor has agreed to perform for the State.