

FIRE AND EMERGENCY RESPONSE SERVICES

1. INTRODUCTION / SERVICES

- A. Contractor shall provide fire and emergency response services to the California Department of Veterans Affairs (CalVet) at the Veterans Home of California, Yountville (Home) located at 100 California Drive, Yountville, California 94599, through Contractor Napa County's own contract with the California Department of Forestry and Fire Protection (CalFire). Contractor shall provide all labor, materials, staff, transportation, license, permits, and every other item of expense necessary, unless otherwise stated, to provide fire and emergency response services. Services shall be provided at the Home and in compliance with the terms of this Agreement.
- B. All work shall be coordinated and approved by the CalVet Contract Manager or designated representative. Any and all services performed outside the scope of this Agreement or not approved by the Contract Manager or designee, will be at the sole risk and expense of the Contractor.
- C. Contractor shall provide services in accordance with federal and state laws and regulations and CalVet policies.

2. CONTRACTOR'S RESPONSIBILITIES

- A. The Contractor shall provide the following services:
 - 1. Hazardous Materials Response Team with equipment (Level A), which shall respond to spills and other hazardous incidents.
 - 2. Fire protection/suppression.
 - 3. Emergency medical services.
 - 4. Technical Rescue Team with required specialized equipment and training for response to such rescues as high and low angle rescues, confined space rescues, swift water rescues, and trench rescues.
 - 5. Fire investigation services provided through the Napa County Fire Marshal's office.
 - 6. Emergency dispatch services provided by the county's emergency dispatch center.
 - 7. Fire Department administration services, including but not limited to, equipment and personnel support services, budget management, bill payments, supply purchasing, and Chief Officer Coverage by the County Fire Chief, Deputy Fire Chief, Assistant Fire Chiefs, and/or Battalion Chiefs.
 - 8. Provide the Chief Safety Officer with a quarterly Yountville Fire Station report, prepared for the Home, which includes, among other things, a statistical analysis of all calls responded to by the Yountville Fire Station, and a description of major events, special events, and training occurring at the Home, including the Fire Training Facility located at 7294 Silverado Trail in Napa, California.
 - 9. Work jointly with the Home's Office of Public Safety Officers (e.g. Firefighter/Security Officers) and the California Highway Patrol in an effort to mitigate incidents at the Home.
- B. Contractor shall provide a four (4) person team level, seven (7) days a week, twenty-four (24) hours per day. The staffing to assure the team level and time parameters set forth will be at the discretion of the Contractor.
- C. The Contractor shall, at Contractor's own risk and expense, determine the method and manner by which duties imposed on Contractor by this Agreement shall be performed. CalVet, through the Home Contract Manager, will monitor the work performed by the Contractor. Any modification of this Agreement shall be void unless such modification is in writing and signed by both parties to the Agreement.

- D. CalVet and the Contractor mutually acknowledge that the level of service to be provided by the Contractor as set forth above is dependent upon the continued participation by both CalVet and the Town of Yountville in the funding of the operations and maintenance costs of the Yountville Fire Station on the premises of the Home. Upon any reduction in CalVet's and/or the Town of Yountville's contribution, this Agreement shall be renegotiated and amended as to scope of work and compensation.
- E. Contractor shall provide fire protection services as set forth above in this Exhibit A. Because the fire protection services to be performed by the Contractor are of a special, unique, unusual, extraordinary, and time-sensitive nature, involving personnel with special training which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in action of law, CalVet, in addition to any other rights or remedies it may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by the Contractor.
- F. All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval, or communication that either party desires shall be addressed to the other party at the addresses set forth above. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five (5) days following the date of deposit, whichever is earlier.

3. CONTACT INFORMATION

A. The Contract Managers during the term of this Agreement will be:

1. **CalVet Representative/Contract Manager:**

Veterans Home of California - Yountville
Bernard Sick, Chief Safety Officer
100 California Drive
Yountville, CA 94599
Phone: (707) 944-4770
Bernard.Sick@calvet.ca.gov

2. **Contractor Representative:**

Napa County Fire Department
Helene Franchi, Deputy County Executive Officer
1195 Third Street Suite 310
Napa, CA 94559
Phone: (707) 253-4820
Helene.Franchi@countyofnapa.org

B. Contract Representatives, addresses, and phone/fax numbers may be changed by issuing a 20-day prior written notification and shall not require a formal amendment to this Agreement. The notifying party shall provide complete contact information for the replacement Contract Representative including, name, title, mailing address, phone/fax numbers, and email address. All other changes require a formal written amendment to this Agreement.

1. STANDARD BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, CalVet agrees to compensate the Contractor on a semi-annual basis for services rendered in accordance with the rates specified in Exhibit B-1 Rate Sheet (Schedule A, Fiscal Display PRC 4142), which is attached hereto and made a part of this Agreement. Under this Agreement, one-third (1/3) of the total charges indicated on Exhibit B-1 Rate Sheet (Schedule A for Personnel Services, Operating Expenses and Administrative Charges), shall be paid by the following parties: the Home, the County of Napa, and the Town of Yountville.
 - a. CalVet agrees to compensate the Contractor one-third (1/3) of the cost of the replacement of Engine 12. Compensation shall be based upon services actually rendered, and upon receipt and approval of the invoices. The total amount of CalVet's compensation for Engine 12 shall not exceed \$18,833.00 per fiscal year.
 - b. In accordance with separate lease agreements, Contractor utilizes two CalVet-owned sites for activities related to the provision of fire services. Specifically, these sites include a fire station and a training facility. The rent for the use of these properties has been calculated and agreed upon by the two parties to be valued at \$40,000. In consideration for CalVet's waiver of the rent that contractor owes under these leases, Contractor shall waive CalVet's contribution to the Truck Replacement Fund of \$29,487.15.
2. The rates for salary, pay differentials, and operating expenses are established through CalFire/Local Government Program, 8500 Cooperative Fire Programs, Schedule A, Public Resources Code (PRC) §4142. The rates are based on the current provisions of the negotiated Memorandums of Understanding (MOUs) for the various Bargaining Units (BUs) and/or personnel policies established by the California Department of Human Resources (CalHR).
3. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Original Invoice	Approval Copy
Department of Veterans Affairs CalVet Accounting Office 1227 O Street, Room 402 Sacramento, CA 95814	Veterans Home of California, Yountville Bernard Sick, Chief Safety Officer 100 California Drive Yountville, CA 94599

B. Budget Contingency Clause

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

C. 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.

2. SPECIAL BUDGET DETAIL AND PAYMENT PROVISIONS

A. Submissions of Invoices/Claims

1. All invoices/claims must be completed thoroughly and legibly, with all applicable fields completed. Invoices/claims that are submitted to the appropriate location but have been altered, or are inaccurate, or do not provide all necessary information will not be accepted and will be returned to the Contractor for correction.
2. Any changes to this provision relating to the invoice/claim submittal process, including but not limited to an address, form, or process change, shall be an administrative change managed through the appropriate designated CalVet office and shall not require a contract amendment.
3. Invoices/claims submitted shall include the following information in order to be considered complete and acceptable for processing, or the invoice/claim will be returned:
 - a. Contractor's Company name
 - b. Contractor's Company address, phone number and e-mail
 - c. Date of invoice/claim
 - d. Invoice/claim number
 - e. CalVet Home where services were performed
 - f. Agreement Number
 - g. Contractor Federal Employer Identification Number and National Provider Identifier number
 - h. Date(s) of Service
 - i. Total dollar amount being billed

**YOUNTVILLE STATION
FISCAL YEAR 2022-2023**

PERSONNEL SALARIES

NO	CLASS	PERIOD	MON	RATE	TOTAL SALARY	BENEFITS 94.43%	SUB TOTAL
1	FC	7/1-6/30	12	6,017	72,204.00	68,182.24	140,386.24
11	FAE	7/1-6/30	132	5,362	707,784.00	668,360.43	1,376,144.43
SAFETY SALARIES							1,516,530.67

PLANNED OVERTIME (edwc)					TOTAL POT	RETIRE 61.31%	SUB TOTAL
NO	CLASS	PERIOD	MON	RATE			
1	FC	7/1-6/30	12	3,505	42,060.00	25,786.99	67,846.99
11	FAE	7/1-6/30	132	3,128	412,896.00	253,146.54	666,042.54
PLANNED OT							733,889.52

UNPLANNED OVERTIME					TOTAL Unplan OT	RETIRE 1.45%	SUB TOTAL
					75,000.00	1,087.50	76,087.50
UNPLANNED OVERTIME							76,087.50

EDUCATIONAL BENEFIT					TOTAL ED. BENE	BENEFITS 94.43%	SUB TOTAL
NO	CLASS	PERIOD	MON	RATE			
1	FC	7/1-6/30	12	75	900.00	849.87	1,749.87
11	FAE	7/1-6/30	132	75	9,900.00	9,348.57	19,248.57
EDUCATIONAL BENEFIT							20,998.44

LONGEVITY PAY					DIFFERENTIAL Salary	BENEFITS 94.43%	SUB TOTAL	TOTAL
1	FC	7/1-6/30	12	6,017	300.85	284.09	584.94	7,019.31
11	FAE	7/1-6/30	132	5,362	268.10	253.17	521.27	68,807.22
LONGEVITY PAY							75,826.53	

HAZMAT DIFFERENTIAL					DIFFERENTIAL	BENEFITS 94.43%	SUB TOTAL	TOTAL
1	FC	7/1-6/30	12		150.00	141.65	291.65	3,499.74
11	FAE	7/1-6/30	132		150.00	141.65	291.65	38,497.14
HAZMAT DIFFERENTIAL							41,996.88	

TOTAL PERSONNEL SERVICES 2,465,329.55

OPERATING EXPENSE

MISCELLANEOUS STATION EXPENSE			
TYPE	MONTHS	RATE	AMOUNT
Station Maintenance	12		45,000.00
Office Supplies	12		1,000.00
Photocopier	12		1,000.00
Household	12		1,750.00
Janitorial	12		1,750.00
Target Solutions Training Software			900.00
STATION EXPENSE			51,400.00

TYPE	MONTHS	RATE	AMOUNT
Gas & Electricity	12	2,245.00	26,940.00
Water & Sewer	12	750.00	9,000.00
Garbage	12	202.00	2,424.00
Phone/Internet	12	459.00	5,508.00

UTILITIES 43,872.00

SAFETY CLOTHING

NO		RATE	AMOUNT	3YR SCHEDULE
12	Employees	5,400.00	64,800.00	21,600.00

SAFETY GEAR 21,600.00

UNIFORMS

NO		MONTHS	RATE	AMOUNT	RETIREMENT
12	Permanent Safety	144	178.00	25,632.00	371.66 26,003.66

UNIFORMS 26,003.66

TRAVEL AND TRAINING

County Business 8,500.00

TRAVEL AND TRAINING 8,500.00

VEHICLES

NO	OWNER	TYPE	RATE	MOS.	AMOUNT
1	County	Engine Truck	Replacement Fund Replacement Fund		18,833.00

VEHICLES 18,833.00

TOTAL OPERATING EXPENSES 170,208.66

ADMINISTRATIVE CHARGE

12.01% of GROSS EXPENDITURES 2,635,538.21

ADMIN CHARGE 316,528.14

GRAND TOTAL 2,952,066.35

Three Equal Shares 984,022.12

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).)

1. **EXCISE TAX**

The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Contract. California may pay any applicable sales or use tax imposed by another state.

2. **STATUTORY AND REGULATORY PROVISIONS**

- A. This Contract shall be governed and construed in accordance with all applicable statutory and regulatory provisions including, but not limited to:
- 1) Title XVIII of the Federal Social Security Act
 - 2) Title XIX of the Federal Social Security Act
 - 3) Chapters 7 and 8 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code
 - 4) Division 3, Title 22, California Code of Regulations (CCR)
 - 5) Health and Safety Code Section 1340 et seq.
 - 6) All applicable Federal provisions which regulate the administration of health care programs and budget revisions, as contained in the Code of Federal Regulations (CFR), Title 42, and Title 45, Part 74, Title 42 United States Code, Sections 1395 et seq. and 1396 et seq.
 - 7) Sub-chapter 13 (commencing with Section 6800), Chapter 4, Part 1, Title 17, CCR; and
 - 8) All other applicable laws and regulations.
- B. Any provision of this Contract in conflict with the applicable laws and regulations is hereby amended to conform to the provisions of those laws and regulations. Such amendment of the Contract shall be effective on the effective date of the statutes or regulations necessitating it, and shall be binding on the parties even though the amendment may not have been reduced to writing and formally agreed upon and executed by the parties. If, due to amendment in laws of regulations, Contractor is unable or unwilling to comply with the provisions of the amendment(s), State or Contractor may terminate this Contract in accordance with the Termination provision of this Contract.

3. **EXAMINATION AND AUDIT**

- A. Contractor shall allow the State and its related entities, the Comptroller General of the United States, Department of Justice (DOJ), and the Bureau of Medi-Cal Fraud, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and Subcontractors pertaining to services under this Contract at any time during normal business hours.
- B. Contractor shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under this Contract in accordance with *Government Code, Section 85467.7*. The examination and audit shall be confined to those matters directly connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.
- C. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Contract, including working papers, reports, financial records, and books of account, Medical Records, prescriptions files, Subcontracts, and any other documentation pertaining to medical and non-medical services for residents of the Home. Upon request, at any time during the term of this Contract, the Contractor shall furnish any record or copy.

4. **RESOLUTION OF DISPUTES**

- A. The Contractor may dispute and appeal a decision or action by the State arising out of the Interpretation or administration of this Contract. A written dispute notice shall be submitted to the Contract Manager within thirty (30) calendar days from the date the Contractor receives notice of the decision or action in dispute.

The Contractor's dispute notice shall state the following, based on the most accurate information available to the Contractor:

- 1) That it is a dispute pursuant to this Section.
 - 2) The date, nature, and circumstances of the conduct, which is the subject of dispute.
 - 3) The names, telephone numbers, function, and activity of each contractor, subcontractor, State official, or employee involved in or knowledgeable about the conduct.
 - 4) The identification of any documents and the substance of any oral communications involved in the conduct. Copies of all identified documents shall be attached.
 - 5) The reason why the Contractor is disputing the conduct.
 - 6) The cost impact to the Contractor directly attributable to the alleged conduct, if any.
 - 7) The Contractor's desired remedy.
- B. The State and the Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the Contract Manager level. The parties recognize that the implementation of this policy depends on open-mindedness, and the need for both sides to present adequate supporting information on matters in question. The Contract Manager, in a written decision stating the factual basis for the decision, will decide any disputes concerning performance of this Contract. Before issuance of the Contract Manager's decision, informal discussions between the parties by the individuals who have not participated substantially in the matter in dispute will be considered by the parties in efforts to reach mutual agreement.
- C. The Contract Manager will render a decision or request additional substantiating documentation from the Contractor within thirty (30) days of receipt of the Contractor's appeal. A copy of the decision will be provided to the Contractor. The decision shall be final and conclusive unless, within thirty (30) days from the date of the decision, the Contractor files a written appeal addressed to the Undersecretary, California Department of Veterans Affairs.
- D. The Undersecretary's decision shall be final and conclusive unless the decision is arbitrary, capricious, grossly erroneous or if any determination of fact is unsupported by substantiating evidence. The Undersecretary's decision will be in writing and may encompass facts, interpretations of the Contract, and determination or application of law. The Contractor may, prior to the Undersecretary's decision, present oral or documentary evidence, and arguments in support of the Contractor's appeal. The decision will either:
- 1) Find in favor of the Contractor, in which case the Undersecretary may:
 - a) Countermand the earlier conduct which caused the Contractor to file a dispute; or
 - b) Reaffirm the conduct and, if there is a cost impact sufficient to constitute a change in obligations pursuant to the payment provisions, direct the State to comply with that Section.
 - 2) Deny the Contractor's dispute and, where necessary, direct the manner of future performance; or
 - 3) Request additional substantiating documentation in the event the information in the Contractor's dispute or appeal is inadequate to permit a decision to be made under paragraphs (1) or (2) above, advise the Contractor as to what additional information is required, and establish how that information will be furnished. The Contractor shall have thirty (30) days to respond to the Undersecretary's request for further information. Upon receipt of this additional requested information, the

Undersecretary will have thirty (30) days to respond with a decision. Failure to supply additional information required by the Undersecretary within the time period specified above shall constitute waiver by the Contractor of all claims.

- E. Attorney's fees and costs for any dispute or subsequent trial shall be borne by the respective parties. Both parties waive trial by jury, and any trial in superior or municipal court shall be by a judge alone. Any litigation arising out of this Contract shall be conducted in a California Court pursuant to California law.
- F. Contractor shall continue with the responsibilities under this Contract during any dispute.

5. AGENCY LIABILITY (Applies only to Federally Funded Contracts)

The Contractor warrants by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Contract without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

6. POTENTIAL SUBCONTRACTORS

For all Agreements, with the exception of Interagency Agreements and other governmental entities/auxiliaries exempt from bidding, nothing contained in this Contract or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's 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 enforce the payment of any moneys to any subcontractor.

7. INSURANCE REQUIREMENTS

- A. Upon contract award, contractor must furnish to the State an original certificate(s) of insurance stating that the contractor has the following types of coverage, if applicable:
 - 1) Commercial General Liability: Combined Single Limit (CSL) for no less than \$1,000,000 per occurrence for bodily injury and property damage. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products/completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.
 - 2) Professional Liability: (Applies to any contract in which the work is of a professional nature such as, but not limited to, physicians, architects, engineers, accountants, or consultants) Covering any damages caused by an error, omission, or any negligent acts. Limits of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
 - 3) Automobile Liability (Applies to any contract in which the contractor will likely use a vehicle to complete the project or drive a vehicle onto State property): Limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of an automobile including owned, hired, and non-owned autos.
 - a) MCS90 endorsement on the Automobile policy (**required whenever contractor will be transporting Hazardous materials i.e. Pest Control and Waste contracts.**)
 - 4) Pollution Liability/Environmental Impairment Liability (Applies only to Pollution Contracts – i.e. Pest

Control and Waste Contracts): In addition, the certificate evidencing general liability must include evidence of one of the following if applicable to the service:

- a) Pesticide/Herbicide Endorsement, OR
 - b) An endorsement deleting the general liability pollution exclusion, OR
 - c) A separate environmental/pollution liability policy with limits not less than \$1,000,000 covering bodily injury and property damage from pollution and related clean-up costs incurred arising out of the work or services to be performed under this contract.
- 5) Workers' Compensation (Mandatory for all Contractors who have at least one employee): Contractor shall maintain workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Contractor shall furnish a certificate for Workers' Compensation issued by an insurance carrier licensed to write Workers' Compensation insurance in the State of California, including the name of the carrier and the date of expiration of insurance, or a Certificate of Consent to Self-Insure issued by the Department of Industrial Relations.
- 6) Fidelity Bond/Crime Insurance: (Applies only to contracts handling State money or securities – i.e. Armored Car Service Contracts) Contractor shall maintain Employee Dishonesty and, when applicable, Inside/Outside Money & Securities coverages for state-owned property in the care, custody and control of the Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as loss payee the California Department of Veterans Affairs
- 7) The certificate(s) of insurance shall be on an ACORD form, or equivalent, and must show "occurrence" coverage. The certificates of insurance must also contain all of the following provisions:
- a) Name and address of the insurance company, policy number, and beginning and ending dates of the policy.
 - b) Statement that the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
 - c) Statement that the State of California, its officers, agents, employees, and servants are included as additional insured on the policy, but only insofar as the operations under this contract.
- 8) Contractor agrees that any insurance herein provided shall be in full force and effect at all times during the term of the contract. In the event said insurance coverage expires at any time during the term of this contract, Contractor agrees to provide, at least ten (10) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. In the event contractor fails to keep in effect at all times insurance coverage herein provided, State may, in addition to any other remedies it may have, terminate the contract upon the occurrence of such event, subject to the provisions of the contract.
- 9) Contractor shall notify the State within five (5) days if any insurance coverage identified in the contract is altered in any way.

8. RIGHT TO TERMINATE

- A. The State reserves the right to terminate this Contract subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this Contract only if the State should substantially fail to perform its responsibilities as provided herein. However, the Contract can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

B. This Contract may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.

9. **FORCE MAJEURE**

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of, performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

10. **EVALUATION OF CONTRACTOR**

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

11. **SB/DVBE PARTICIPATION**

In accordance with requirements set forth by the State, the CalVet shall enforce all laws, rules, and regulations pertaining to this program. It is the Contractors responsibility to provide CalVet with all required documents as outlined in this agreement. The CalVet reserves the right to contact each SB and DVBE identified by the Contractor to verify compliance. Failure to meet SB/DVBE requirements under Exhibit B, and Exhibit C (GTC 04/2017), paragraphs 19, may deem the Contractor to be non-responsible and rejected from future bid and contract opportunities with the CalVet.

12. **LICENSES AND PERMITS**

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

If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the California Department of Veterans Affairs a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that state.

In the event any license(s) and/or permit(s) expire at any time during the term of this contract, Contractor agrees to provide agency a copy of the renewed license(s) and/or permit(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) and permit(s), the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

13. **CONSULTANT – STAFF EXPENSES**

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

14. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION**

For the purpose of this contract, contractor shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), as well as State and Federal requirements for privacy protection. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identified Health Information (U.S.C. 1320d et seq.), and implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule, remain enforce and applicable for access to protected health information, including electronic protected health information.

15. **LEGAL CONTRACTS (applies only to Legal Services Contracts)**

In accordance with (Public Contract Code Section (10353.5) The Contractor shall:

- A. Agree to adhere to legal cost and billing guidelines designated by the State.
- B. Adhere to litigation plans designated by the state agency.
- C. Adhere to case phasing of activities designated by the state agency.
- D. Submit and adhere to legal budgets as designated by the state agency.
- E. Maintain legal malpractice insurance in an amount not less than the amount designated by the state agency.
- F. Submit to legal bill audits and law firm audits if requested by the state agency. The audits may be conducted by employees and designees of the state agency or by any legal cost control providers retained by the state agency for purpose.
- G. Submit to a legal cost and utilization review, as determined by the state agency.