

SCO ID: 0690-6142-2019

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER
6142-2019

PURCHASING AUTHORITY NUMBER (If Applicable)
GOES-0690

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

CONTRACTING AGENCY NAME

California Governor's Office of Emergency Services (Cal OES)

CONTRACTOR NAME

AMREP Vendor Inspection Services Pte Ltd

2. The term of this Agreement is:

START DATE

April 24, 2020

THROUGH END DATE

August 31, 2020

3. The maximum amount of this Agreement is:

\$390,000.00

Three Hundred Ninety Thousand Dollars and Zero Cents

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

Exhibits	Title	Pages
Exhibit A	Statement of Work	6
Exhibit B	Budget Detail and Payment Provisions	2
Exhibit B-1	Cost Sheet	1
+ - Exhibit C *	General Terms and Conditions	3
+ - Exhibit D	Federal Terms and Conditions	7
+ - Exhibit E	Special Provisions	3

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

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

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

CONTRACTOR

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

AMREP Vendor Inspection Services Pte Ltd

CONTRACTOR BUSINESS ADDRESS

1 MARITIME SQUARE, #10-26 HARBOURFRONT CENTRE,
Unit 2508-10, COFCO Building, Long Jin Road 2, Baoan District, Shenzhen

Guangdong Province

STATE ZIP
China

PRINTED NAME OF PERSON SIGNING

Kay Goh

TITLE

International Business Development Director

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED

24 April 2020

05/05
K.G./20
SINGAPORE 099253

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PURCHASING AUTHORITY NUMBER (If Applicable)

GOES-0690

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Governor's Office of Emergency Services (Cal OES)

CONTRACTING AGENCY ADDRESS

3650 Schriever Ave

CITY

Mather

STATE

CA

ZIP

95655

PRINTED NAME OF PERSON SIGNING

Christina Curry

TITLE

Chief Deputy Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

April 25, 2020

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

Exempt per Governor's March 4, 2020
Emergency Proclamation (COVID-19)

EXHIBIT A
STATEMENT OF WORK (SOW)

1. RECITALS AND AUTHORITY FOR CONTRACT

In 2020, the State of California, the United States, and multiple key continents around the world are combating the rapid spread of the deadly pandemic known as the Novel Coronavirus or COVID-19 (the "Pandemic"). Despite the current state of the Pandemic around the world as of April 23, 2020, the State of California through the Governor's Office of Emergency Services ("Cal OES" or "State" or "OES") and AMREP Vendor Inspection Services Pte Ltd ("AMREP" or "Contractor") (collectively "Parties") agree they are capable of performing all obligations under this Agreement.

2. SCOPE OF WORK

- A. Contractor will provide audit and inspection services at Seller's facilities in Changsha and Shenzhen, China at the rates and classifications listed in Exhibit B-1. For the purposes of this Agreement, the "Seller" is defined as Global Healthcare Production Solutions, LLC and its affiliates, officers, directors, employees, agents, contractors, partners, agents, subsidiaries, parent company, and production persons (including BYD Co. Ltd).
- B. Contractor will provide all labor and necessary communication equipment (eg; laptop computers and cell phones) to perform services pursuant to this Agreement. Seller shall provide adequate workspace and inspection equipment required by Contractor to perform audit and inspection services at Seller's manufacturing facilities. The State will provide necessary documentation and information to Contractor. The State understands that Contractor will rely on the documentation and information provided by the State and the State will not hold Contractor responsible should the State provide inaccurate information or documentation.
- C. Contractor shall complete audit and inspection tasks against specifications for personal protective equipment (PPE), specifically disposable surgical masks and N95 respirators, as identified in the Specifications to be provided by the State.
- D. A staffing plan for services provided pursuant to this Agreement will be established in writing by the parties' Contract Managers through a side letter agreement. The side letter will be signed by the parties' Contract Managers. Such executed side letter(s) shall be deemed incorporated into this Agreement.

- E. The State reserves the right to request that Contractor replace an assigned team member at any time. The State will notify the Contractor in writing when exercising that right, providing the Contractor with the cause. The Contractor will use its best efforts, within five (5) calendar days of such notification, to provide the names of potential replacement team members, with the selection of the replacement team member mutually agreed upon by both parties.
- F. The following tasks will be completed by Contractor at Seller's production facilities in Changsha and Shenzhen, China:
 - 1. Contractor shall audit Seller's overall Quality Management System (QMS) by reviewing Seller's documented quality policies and procedures. Contractor shall provide a written report to the State within two (2) calendar days of the audit identifying any shortfalls or inadequacies in Seller's QMS system.
 - 2. Contractor shall audit Seller's compliance to its documented QMS policies and procedures by reviewing Seller's actual practices at its manufacturing sites according to ISO 9001 auditing procedures. Contractor shall provide a written report to the State within two (2) calendar days of the audit identifying any non-compliance by Seller to its documented QMS policies and procedures.
 - 3. Contractor shall review Seller's historical quality data for surgical masks and KN95 masks (in the absence of N95 historical data) at Seller's Changsha and Shenzhen facilities. Contractor shall provide a written report to the State within two (2) calendar days of completing the review of historical data summarizing Seller's quality performance at the Changsha and Shenzhen sites.
 - 4. Contractor shall audit Seller's health and safety protocols, including production practices and personnel health checks, which Seller has instituted to prevent COVID-19 contamination of masks. Contractor shall provide a written report to the State within two (2) calendar days of the audit identifying any shortfalls or inadequacies in Seller's health and safety protocols.
 - 5. Contractor will audit Seller's production line layout and capacity plans to determine if they are sufficient to meet the State's volume production requirements. Contractor shall provide a written report to the State within two

- (2) calendar days of the audit identifying any shortfalls or inadequacies in Seller's line layout or capacity plans.
6. Contractor will use its best efforts to complete audits identified in sections 2.F.1 through 2.F.5 at least five (5) calendar days prior to Seller's initial production test runs at its Shenzhen and Changsha facilities.
 7. Upon completion of the audits identified in sections 2.F.1 through 2.F.5, Contractor will develop an Acceptable Quality Level (AQL) sampling plan that is acceptable to the State. Parties will use their best efforts to establish an AQL sampling plan prior to Seller's initial production test run. During the term of this Agreement, the parties may adjust the AQL sampling plan. Such adjustments will be confirmed by a side letter agreement that will be provided by the State to Contractor and which will be signed by the parties' Contract Managers. Such executed side letters shall be deemed incorporated into this Agreement.
 8. Contractor shall conduct a First Article Inspection of surgical masks and N95 masks using samples from Seller's initial production test runs to verify Seller's product meets the Specifications. Contractor will provide a First Article Inspection Report identifying any non-conformance to Specifications within one (1) calendar day of completing First Article inspection.
 9. Upon commencement of volume manufacturing, Contractor will monitor Seller's manufacturing processes, including incoming material inspection, in-process production yields, rework status, and final test results. Contractor will provide daily reports to the State regarding Seller's performance in each of these areas.
 10. Contractor will conduct Source Inspections according to the agreed upon AQL sampling plan to ensure Seller's finished products comply with the Specifications.
 - a. If Contractor determines that the functionality of any mask inspected during Source Inspection does not comply with the Specifications, Contractor will reject that entire production lot.
 - b. If Contractor determines an audited sample mask has cosmetic flaws that do not affect the product's functionality, Contractor may accept that lot based on the pass/fail criteria established in the AQL Sampling Plan.

- c. For purposes of this Section, "production lot" shall be agreed upon by Seller, Contractor and the State prior to the start of Seller's volume production and will be based on Seller's lot numbering system, manufacturing date code or shipment date.
 - d. Contractor will provide daily reports to the State with results of Source Inspection for each type of mask, including; number of lots inspected, lot number for each lot inspected, total number of masks in each lot (lot size), number of masks inspected per lot (sample size), number of functional failures per lot, number of cosmetic failures per lot and number of lots rejected.
11. Contractor will monitor Seller's material shortage reports and production schedules. Contractor will provide a daily report to the State identifying any material shortages or production schedule shortfalls that threaten future shipment schedules.
12. Contractor will monitor Seller's actual shipments and will provide a daily report to the State which including; product description, quantity shipped, lot number and destination.
13. In the event Contractor discovers that Seller is experiencing significant quality or delivery issues, Contractor will immediately notify the State and will request a Supplier Corrective Action Report (SCAR) from Supplier. The SCAR should include the date the SCAR was issued, SCAR number, product affected, number of parts affected, statement of the problem, initial assessment of possible causes, short-term corrective action and long-term Closed Loop Corrective Action (CLCA) plans. The SCAR should also include the name of the person initiating the SCAR, the pertinent Supplier representative's name, a date for when the Supplier's initial assessment is due (3 working days after issuance of the SCAR) and when the long-term CLCA should be completed. Contractor will monitor Seller's progress against completing CLCA plans. Completion of CLCA is defined as when root cause failure analysis has been completed, all corrective actions have been implemented and the corrective action has been validated to eliminate all future occurrences of the problem.
- G. Contractor will conduct on-site, Out-of-Box Quality audits at the State's [REDACTED] located [REDACTED]

1. Contractor will conduct out-of-box quality audits at the State's [REDACTED] with specific inspection dates to be agreed upon by Contractor and the State. QC Inspectors will use a random sampling plan designed to take a representative sample of the quantity received at that facility since the last Out-of-Box Quality Audit.
2. Contractor will provide daily reports to the State with results of the Out-of-Box Quality Audits for each type of mask, including; number of lots inspected, lot number for each lot inspected, total number of masks in each lot (lot size), number of masks inspected per lot (sample size), number of functional failures per lot, number of cosmetic failures per lot and number of lots rejected.

3. TERM/PERIOD OF PERFORMANCE

- A. The term of this Agreement is from April 24, 2020, through August 31, 2020.

4. BUDGETED AMOUNT

The total maximum amount payable under this Agreement shall not exceed [is] \$390,000.00.

5. AUTHORIZED REPRESENTATIVES

The authorized representatives during the term of this Agreement are identified in the tables below. Cal OES reserves the right to change the contract manager at any given time without an amendment and reserves the right to approve any substitutions of the Contractor.

For service related inquiries:

The California Governor's Office of Emergency Services		AMREP	
NAME	Mitchell Medigovich Contract Manager	NAME	Lawrence Khoo
ADDRESS	3650 Schriever Ave. Mather, CA 95655, USA	ADDRESS	Unit 2508-10, COFCO Building, Long Jin Road 2, Baoan District, Shenzhen, Guangdong Province, China
PHONE	(916) 845-8552	PHONE	■ [REDACTED]
EMAIL	Mitchell.Medigovich@caloes.ca.gov	EMAIL	lkhoo@amrepinspect.com.cn

For administrative Agreement inquiries:

The California Governor's Office of Emergency Services		AMREP	
NAME	Casey Granados Contract Division Chief	NAME	Kay Goh
ADDRESS	3650 Schriever Avenue Mather, CA 95655	ADDRESS	1 Maritime Square, #10-26 Harbourfront Centre Singapore 099253
PHONE	(916) 845-8174	PHONE	■ [REDACTED]
EMAIL	casey.granados@caloes.ca.gov	EMAIL	hcgoh@amrepinspect.com

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Payment for services performed under this Agreement shall be in accordance with the Cost Sheet, Exhibit B-1, and be invoiced in arrears on a monthly basis. Payments will be made for only those services rendered and no event will the State be obligated to pay the maximum budget amount identified in this Agreement.
2. Invoices shall be submitted **in triplicate** after services are rendered and shall include the following information:
 - A. Agreement No.
 - B. Contractor
 - C. Service
 - D. Itemized Cost
 - E. Invoice Date

Invoices shall be due and payable, and payment shall be made, only after Cal OES' Contract Manager's acceptance of services.

3. On receipt and approval of an itemized invoice, the Contractor will be reimbursed for actual incurred travel expenses based on the agreed travel rates in Exhibit B-1.
4. Submit invoices to:

California Governor's Office of Emergency Services
Attention: Accounting Unit
3650 Schriever Ave.
Mather, CA 95655

APIInvoices@caloes.ca.gov

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

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

Exhibit B-1 COST SHEET

Contractor Rates

Cost per Person						
Position	Type of Expense	Description	Estimated Cost for 1 Month	Estimated Cost for 2 Months	Estimated Cost for 3 Months	Estimated Cost for 4 Months
Sr. QA Mgr/Mfg Eng (in China)	Air Travel	One time round trip	\$480	\$480	\$480	\$480
	Monthly Retainer*	Salary + hotel & meals	\$7,800	\$15,600	\$23,400	\$31,200
	Land Transport est.	30 days/mo @ \$15/day	\$450	\$900	\$1,350	\$1,800
	Weekend Work	8 days/mo @ \$58/hr	<u>\$3,712</u>	<u>\$7,424</u>	<u>\$11,136</u>	<u>\$14,848</u>
	Total:		\$12,442	\$24,404	\$36,366	\$48,328
QC Inspector (Day Shift Changsha)	Air Travel	One time round trip	\$480	\$480	\$480	\$480
	Monthly Retainer*	Salary + hotel & meals	\$2,800	\$5,600	\$8,400	\$11,200
	Land Transport est.	30 days/mo @ \$15/day	\$450	\$900	\$1,350	\$1,800
	Weekend Work	8 days/mo @ \$25/hr	<u>\$1,600</u>	<u>\$3,200</u>	<u>\$4,800</u>	<u>\$6,400</u>
	Total:		\$5,330	\$10,180	\$15,030	\$19,880
QC Inspector (2nd Shift Changsha)	Air Travel	One time round trip	\$480	\$480	\$480	\$480
	Monthly Retainer*	Salary + hotel & meals	\$2,800	\$5,600	\$8,400	\$11,200
	Land Transport est.	30 days/mo @ \$15/day	\$450	\$900	\$1,350	\$1,800
	2nd Shift Premium	\$40/shift/per person	\$1,200	\$2,400	\$3,600	\$4,800
	Weekend Work	8 days/mo @ \$25/hr	<u>\$1,600</u>	<u>\$3,200</u>	<u>\$4,800</u>	<u>\$6,400</u>
	Total:		\$6,530	\$12,580	\$18,630	\$24,680
QC Inspector (Day Shift Shenzhen)	Monthly Retainer*	Salary + hotel & meals	\$2,800	\$5,600	\$8,400	\$11,200
	Land Transport est.	30 days/mo @ \$15/day	\$450	\$900	\$1,350	\$1,800
	Weekend Work	8 days/mo @ \$25/hr	<u>\$1,600</u>	<u>\$3,200</u>	<u>\$4,800</u>	<u>\$6,400</u>
	Total:		\$4,850	\$9,700	\$14,550	\$19,400
QC Inspector (2nd Shift Shenzhen)	Monthly Retainer*	Salary + hotel & meals	\$2,800	\$5,600	\$8,400	\$11,200
	Land Transport est.	30 days/mo @ \$15/day	\$450	\$900	\$1,350	\$1,800
	2nd Shift Premium	\$40/shift/per person	\$1,200	\$2,400	\$3,600	\$4,800
	Weekend Work	8 days/mo @ \$25/hr	<u>\$1,600</u>	<u>\$3,200</u>	<u>\$4,800</u>	<u>\$6,400</u>
	Total:		\$6,050	\$12,100	\$18,150	\$24,200
QC Inspector (in CA)	Salary for 2 days/wk	\$480/day @ 8 hrs/day	\$3,840	\$7,680	\$11,520	\$15,360
	Travel Time est.	\$60/hr assuming 1 hr RT	\$480	\$960	\$1,440	\$1,920
	Mileage @ \$0.58/mi	Assumes 40 mi/day RT	<u>\$186</u>	<u>\$372</u>	<u>\$558</u>	<u>\$744</u>
	Total		\$4,506	\$9,012	\$13,518	\$18,024

*Assumes 8 hour shifts. OT in China billed at \$58/hr for Sr. QA Mgr/Mfg Eng and \$25/hr for QC Inspectors. Public Holiday rate billed at \$75/hour for Sr. QA Mgr/Mfg Eng and \$30/hour for QC Inspectors. All rates are in US dollars

EXHIBIT C
GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. 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.
3. 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).
4. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute and the State agrees to continue paying the Contractor for services rendered in accordance with Exhibit B and Exhibit B-1. If a dispute arises out of, or in connection with this Agreement, the parties agree to engage in a good faith attempt to resolve the dispute informally by bringing the dispute to the attention of the Cal OES Director and AMREP's authorized Administrative Inquiries contact person (Exhibit A, Clause 5) before availing itself of other available remedies.
5. 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.
6. 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.

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

8. 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.

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

10. 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.

13. 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.

EXHIBIT D
FEDERAL TERMS AND CONDITIONS

Contractor agrees Contractor will comply with the terms of this Exhibit D to the extent the terms are applicable to the services provided pursuant to this Agreement.

1. CLEAN AIR ACT

- A. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
- B. The contractor agrees to report each violation to the California Air Resources Board and understands and agrees that the California Air Resources Board will, in turn, report each violation as required to assure notification to the Department of Resources Recycling and Recovery, the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- C. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

2. THE FEDERAL WATER POLLUTION CONTROL ACT

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

3. DEBARMENT AND SUSPENSION CLAUSE

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- B. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by Cal OES. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Cal OES, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

4. BYRD ANTI-LOBBYING CLAUSE

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

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

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

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



Signature of Contractor's Authorized Official

Kay Goh, International Business Development Director

Name and Title of Contractor's Authorized Official

Date: 24 April 2020

5. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this contract the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired-
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.

- B. Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. ACCESS TO RECORDS

The following access to records requirements apply to this contract:

- A. The Contractor agrees to provide Cal OES, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the Cal OES and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS SEAL, LOGO, AND FLAGS

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

10. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract only. The contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11. NO OBLIGATION BY FEDERAL GOVERNMENT

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

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

The contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's action pertaining to this contract.

13. NONDISCRIMINATION

a) During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and Contractor's subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provision of the Fair Employment and Housing Act (Government Code, section 12990 et seq.) and the applicable regulations promulgated thereunder (Cal. Code of Regulations, Title 2, section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5, Division 4, of Title 2 of the California Code of Regulations are incorporated into the Agreement by reference and made a part hereof, as if set forth in full. 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.

b) The Contractor shall include nondiscrimination and compliance provisions of this Section 30 "Nondiscrimination" in all subcontracts to perform work under the Agreement.

14. EQUAL EMPLOYMENT OPPORTUNITY

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

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- b. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- c. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- d. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- e. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- f. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- g. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- h. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- i. The Contractor will include the portion of the sentence immediately preceding this Section 31(a) and the provisions of Section 31(a) through Section 31(h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractor with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon.

EXHIBIT E
SPECIAL PROVISIONS

1. TERMINATION

- a) Cal OES may terminate this Agreement at any time for any reason with three (3) calendar day written notice to the Contractor. In the event of such termination, Cal OES will pay all amounts due to the Contractor for all services rendered, expenses, and costs accepted or authorized prior to termination.
- b) Neither party will be responsible to perform under this Agreement as a result of acts beyond its reasonable control including, without limitation, acts of God, fire, flood, earthquakes or other man made or natural disasters, outbreak of disease, acts of war or terrorism or crime, shortage of power supply, transportation or other utility service, governmental action, labor disputes, or civil unrest (each a "Force Majeure Event"). The affected party shall, as soon as reasonably practicable but no later than one (1) calendar day after the occurrence of any such Force Majeure Event, (a) provide written notice to the other party of the nature and extent of any such Force Majeure Event; and (b) use reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable. If performance is not reasonably practicable within one (1) calendar day then the other party may then terminate this Agreement by written notice to the affected Party.

2. REMEDIES

The State shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

3. LIMITATION OF LIABILITY

To the maximum extent permitted by law, the parties agree that except for fraud, gross negligence, criminal acts, or willful or wanton misconduct by AMREP, AMREP's maximum liability arising from this Agreement shall in no event exceed the amount of this Agreement. Actions for the specific performance of this Agreement is conditional upon the seller's consent for the Contractor to perform the Agreement on its premises.

4. SPECIFICATIONS AND WARRANTIES

- a) Contractor does not guarantee, warrant, or make representations in any form, as to the Seller's products, product performance, production performance, product quality, product delivery timelines, shipments, and the Seller's commitments made to the State. The State acknowledges and understands that the Contractor's work performance is contingent upon the Seller's willingness to cooperate with the Contractor.
- b) State agrees that it is responsible for ensuring that the specifications agreed upon between the Contractor and the State for the Contractor to perform its services, complies or is permissible under applicable federal and state regulations, policies, and standards.
- d) The State acknowledges and understands that the Contractor performs quality inspection and auditing services on a 'as is where is' basis. All findings will be reported based on what has been presented to the Contractor's personnel at the time of the inspection. It is the State's responsibility to work with the Seller to ensure the integrity of the lot after the Contractor's inspection.
- e) The Contractor disclaims responsibility and liability for lot and product integrity, as well as matters relating to shipment, delivery, and logistics, after it conducts its auditing and quality inspection services.

5. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

6. MODIFICATION AND ENTIRE AGREEMENT

- a) 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.
- b) Upon mutual consent, Cal OES and the Contractor may execute written amendments, including extensions for time and budget amount.
- c) This Agreement constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter.

7. 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 its responsibilities and obligations hereunder. The Contractor agrees to be fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of the subcontractors 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.

Contractor must ensure that the subcontractor(s) will have all necessary licenses, insurance, permits, and/or certifications to accomplish its portion of the work. Failure of a subcontractor(s) to have the proper licenses, insurance, permits, and/or certifications, may be cause for rejection of the subcontractor and/or termination of the agreement. Use of any subcontractor is subject to pre-approval by the State.

8. CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical and other data and information relating to the State's operation, which are designated confidential by the State and made available to the Contractor in order to carry out this Agreement, or which become available to the Contractor in carrying out this agreement, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information, as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure, shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required, under the provisions of this paragraph, to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties.