

**EXHIBIT B
GENERAL TERMS AND CONDITIONS**

1. **Amendments:** This Agreement shall not be altered or amended except: (1) in writing, upon the mutual written agreement of both parties; or (2) as provided in the Conditional Commitment Letter. No oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
2. **No Assignment:** Without the written consent of the state, this Agreement is not assignable by Contractor either in whole or in part.
3. **Audit/Retention and Inspection of Records:** Contractor agrees that the state or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Contractor agrees to provide the state or its delegatee with any relevant information requested and shall permit the state or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Government Code section 8546.7. Contractor further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.
4. **Indemnification:** The Contractor agrees to indemnify, defend and save harmless the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, 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 the Contractor in the performance of this Agreement.
5. **Disputes:**
 - a. Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement, which is not disposed of by agreement, shall be decided by the State Coordinator, who shall reduce decisions to writing in regard to the dispute and shall transmit a copy thereof to the Contractor.

The decision of the State Coordinator shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the Contractor transmits a written appeal to the state. Pending the final decision by the Director of the Department or his/her designee, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with the written decision of the State Coordinator, which is the subject of the Contractor's appeal.
 - b. Notwithstanding any other provision of this Agreement, after recourse to the procedure set forth in paragraph a. above, any controversy or claim arising out of or relating to this Agreement or breach thereof shall be settled by arbitration at the election of either party in accordance with Public Contract Code section 10240 et seq., and judgment upon the

award rendered by the arbitration may be entered in any court having jurisdiction thereof.

6. **Termination:** The state may terminate this Agreement and be relieved of any obligation to fund the Loan should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided.
7. **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.
8. **Time of Essence:** Time is of the essence in this Agreement.
9. **Governing Law:** This Agreement shall be construed with and be governed by the laws of the State of California and applicable federal law. All references to codes are references to the California Codes unless indicated otherwise.
10. **Child Support Compliance Act:** For any Agreement in excess of \$100,000, the Contractor acknowledges in accordance with, 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 §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.
11. **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.
12. **Union Organizing:** By signing this agreement, Contractor hereby acknowledges the applicability of Government Code section 16645 through section 16649 to this agreement.
 - a. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
 - b. No state funds received under this agreement will be used to assist, promote or deter union organizing.
 - c. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

- d. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
13. **Commitment of State Funds:** The amount encumbered by this Agreement shall be equal to the maximum amount of the Loan specified in the Conditional Commitment Letter (Exhibit C). The state hereby agrees to provide Loan funds to the Contractor in an amount and subject to the terms set forth in the Conditional Commitment Letter exclusively for the purposes designated herein.
14. **Drug Free Workplace:** By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, §8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available counseling, rehabilitation and employee assistance programs; and (4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works at the Property will: (1) receive a copy of the Contractor's drug-free workplace policy statement; and (2) agree to abide by the terms of the Contractor's statement as a condition of employment at the Property.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future state agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code, §8350 et seq.)

15. **Nondiscrimination Clause:** 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 race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual orientation, age, pregnancy, childbirth, or related medical condition nor shall the Contractor and its subcontractors unlawfully deny family and medical care leave or pregnancy disability leave. Contractor and its subcontractors shall insure 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 provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990, subdivisions (a-f), set forth in the California Code of Regulations, title 2, section 8101 et seq.,

are incorporated into this Contract 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.

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

16. **National Labor Relations Certification:** The Contractor warrants by execution of this Agreement and does swear under penalty of perjury under the laws of the State of California that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court, which orders the Contractor to comply with an order of the National Labor Relations Board.
17. **Conflict of Interest:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
 - a. Current State Employees (Pub. Contract Code, §10410):
 - 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
 - b. Former State Employees (Pub. Contract Code, §10411):
 - 1). For the 2-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - 2). For the 12-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.
 - c. If Contractor violates any provision of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code, §10420)
 - d. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code, §10430(e))

18. **Labor Code/Workers' Compensation:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Lab. Code, §3700)
19. **Americans with Disabilities Act (ADA) of 1990:** By signing this Agreement, Contractor assures the state that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
20. **Contractor Name Change:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the state will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
21. **Corporate Qualifications to do Business in California:**
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in Revenue and Taxation Code section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
22. **Certified Resolution:** This Agreement shall be accompanied by a certified resolution from the Contractor's governing body authorizing its execution.
23. **Air or Water Pollution Violation:** Under the state laws, the Contractor shall not be:
 - a. in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
 - b. subject to cease and desist order not subject to review issued pursuant to section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions;
or
 - c. finally determined to be in violation of provisions of federal law relating to air or water pollution.