

**AGENDA- (Special Board Meeting)**  
**KINGSBURG JOINT UNION HIGH SCHOOL DISTRICT**  
**BOARD OF TRUSTEES**  
 Board Room 1900 18th Avenue 11:00 a.m.  
 Kingsburg, CA 93631  
 June 30, 2021

1. CALL TO ORDER \_\_\_\_\_

2. SALUTE TO THE FLAG

3. ROLL CALL AND ESTABLISHMENT OF A QUORUM

Members Present \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Members Absent \_\_\_\_\_

\_\_\_\_\_

4. OTHERS PRESENT \_\_\_\_\_

5. APPROVAL OF AGENDA

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

6. PUBLIC COMMENT

A special meeting of the Board of Trustees of the Kingsburg Joint Union High School District has been duly called at the hour of 11:00 a.m. in the maintenance conference room at Kingsburg Joint Union High School District to consider the following items of business to be upon the agenda:

**Public Comment**  
 For regular meetings, the public is provided an opportunity to address not only any item on the agenda but any item within the subject matter jurisdiction of the Kingsburg Joint Union High School District. **Disclaimer:** The opinions expressed in public comments are the authors own and do not necessarily reflect the official policies or position of the Kingsburg Joint Union High School District

Members of the public who wish to provide public comment during observed COVID-19 social distancing guidance may email the district at [PublicComment@Kingsburghigh.com](mailto:PublicComment@Kingsburghigh.com) by 4:00 p.m. the Friday before the meeting date, which generally lands on Monday. Public comments are limited to three minutes or 450 written words per speaker. Twenty (20) minutes per issue will be allowed. Please note you are not compelled to provide a name and can comment anonymously. The public comments will be read in the order they are received. The comments will be read outload during the public comment portion of the meeting.

Board of Education is prohibited by law from taking action on matters discussed that are not on the agenda and no adverse conclusions should be drawn if the Board does not respond to public comments made at this time. Concerns will be referred to the Superintendent's office for review and response.

**Board Room Accessibility:** The Kingsburg Joint Union High School District encourages those with disabilities to participate fully in the public meeting process. If you need a disability related modification or accommodation, including auxiliary aids or services to participate in the public meeting, please contact the Administrative Assistant to the Superintendent at 897-7721 at least 48 hours before the scheduled Board of Trustees meeting so that we may make every reasonable effort to accommodate you [Government Code § 54954.2; Americans with Disabilities Act of 1990, § 202 (42 U.S.C. § 12132.)]

**7. ACTION**

- 7.1 Grant Agreement Kingsburg Tri-county Health Care District & KJUHS D – Athletic Track.....1
- 7.2 CMAS Contract Agreement Beynon & KJUHS D : All-Weather Track Resurfacing.....20

**8. ADJOURNMENT** \_\_\_\_\_  
(Time)

**FOR BOARD ACTION:**

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_  
Thomsen: \_\_\_\_\_ Nagle: \_\_\_\_\_ Lunde: \_\_\_\_\_ Serpa: \_\_\_\_\_ Jackson: \_\_\_\_\_

**ISSUE:**

Presented to the Board is the Grant Agreement between Kingsburg Tri-County Health Care District and Kingsburg Joint Union High School District for repair, resurfacing and maintenance of the athletic track in the amount of \$161,870.00.

**ACTION:**

Approve or deny the Grant Agreement between Kingsburg Tri-County Health Care District and Kingsburg Joint Union High School District for repair, resurfacing and maintenance of the athletic track.

**RECOMMENDATION:**

Recommend approval

**FOR BOARD ACTION:**

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_  
Thomsen: \_\_\_\_\_ Nagle: \_\_\_\_\_ Lunde: \_\_\_\_\_ Serpa: \_\_\_\_\_ Jackson: \_\_\_\_\_

COPY

## GRANT AGREEMENT

### I. INTRODUCTION

**THIS GRANT AGREEMENT (“Agreement”)**, is entered into between the KINGSBURG TRI-COUNTY HEALTH CARE DISTRICT, referred to as “**DISTRICT**,” and KINGSBURG JOINT UNION HIGH SCHOOL DISTRICT (“**KJUHSD**”), referred to as “**GRANTEE**,” with reference to the following:

### II. RECITALS

- A. WHEREAS, the DISTRICT is a California local health care district organized and existing pursuant to Health and Safety Code §§ 32000 *et seq.*;
- B. WHEREAS, the GRANTEE is organized and existing under the laws of the State of California as a public school district;
- C. WHEREAS, the GRANTEE desires to implement a portion of its health and wellness program the Kingsburg High School, which is within the boundaries of the DISTRICT;
- D. WHEREAS, the DISTRICT and GRANTEE desire to and hereby incorporate the requirements, terms and conditions of the DISTRICT’s grant policy and grant award into this Agreement;
- E. WHEREAS, the DISTRICT’s Board of Directors has determined that a grant of DISTRICT funds to GRANTEE for the repair, resurfacing and maintenance of its athletic track (“**Program**”) will further both the GRANTEE’s and the DISTRICT’s wellness and prevention programs and is necessary to enable and encourage physical exercise on GRANTEE’s athletic track by both high school students and members of the public within the DISTRICT, and has approved a grant to the GRANTEE in a total amount up to, but not exceeding, **one hundred sixty-one thousand eight hundred seventy and 00/100 U.S. dollars (\$161,870.00 USD)** for the Program (the “**Grant**” and “**Grant Funds**”); and
- F. WHEREAS, the DISTRICT and the GRANTEE intend to now enter into this Agreement in order to provide the terms under which the DISTRICT will fund the GRANTEE’s Program, which would provide health and wellness equipment and/or facilities to benefit the public, including residents of the DISTRICT.

**ACCORDINGLY, IT IS AGREED:**

### III. SPECIFIC TERMS

**1. PURPOSE:**

Grant Funds must be used solely for those Program expenditures which are specified within **EXHIBIT A**. If the grant was awarded for equipment, then the GRANTEE must utilize and maintain said equipment in a reasonable manner and not intentionally abuse or damage it. Unless said equipment is no longer functioning, is beyond reasonable repair or is beyond its useful life expectancy, said equipment may not be gifted or sold for less than fair market value, unless traded-in, to a vendor/dealer of the same or similar equipment, in connection with the receipt of reasonable credit toward the purchase of new or upgraded replacement equipment. If said equipment is sold, transferred or destroyed within five (5) years or less after Grant Funds were expended on it, GRANTEE shall notify DISTRICT of such fact, in writing, within twenty (20) business days.

The Grant Funds received by GRANTEE must be used by GRANTEE strictly in accordance with the terms of this Agreement, including the grant purpose, project objectives and budget specified in this Agreement, if any. GRANTEE must maintain books and records which segregate and account for the Grant Funds separately. All expenditures made in furtherance of the purpose(s) of the Grant Funds provided under this Agreement must appear on those books and records. GRANTEE must keep invoices, receipts, vouchers and other reliable records to substantiate all expenditures of Grant Funds.

No Grant Funds may in any way be used for the purpose of: (i) any other program or purpose by the GRANTEE or any capital improvements or other capital expenditures for the Program or the GRANTEE, other than those identified in **EXHIBIT A**; (ii) influencing legislative or administrative decisions of any governmental body or for the support of any political campaign; or (iii) any activity or decision which constitutes a violation of any law or regulation applicable to the Program or the GRANTEE.

**2. TERM:** This Agreement shall become effective as of the date of the final party signature below and shall expire on June 30, 2022, unless otherwise terminated as provided in this Agreement.

**3. SCOPE OF GRANT SERVICES, PROGRAM OR EQUIPMENT FUNDED:** See attached **EXHIBIT A**.

**4. PAYMENT OF GRANT FUNDS:** Grant Fund payments will be made by the DISTRICT to GRANTEE according to the schedule set forth in attached **EXHIBIT B**.

**5. LIMIT OF COMMITMENT:** Unless otherwise approved by the DISTRICT's Board, this Grant shall be a one-time grant by the DISTRICT, and is non-renewable. Nothing in this Agreement shall preclude GRANTEE from making

application to the DISTRICT for any future grant funds which may become available from the DISTRICT. GRANTEE will not be entitled to priority or special consideration by the DISTRICT in connection with future grant applications solely because of the fact that Grant Funds were awarded under this Agreement.

**6. RETURN OF UNEXPENDED GRANT FUNDS:** The parties agree that ownership of Grant Funds which are not expended within one hundred eighty days (180) after disbursement by the DISTRICT to the GRANTEE shall automatically revert back to the DISTRICT at that point and, while they remain in the custody of GRANTEE, they are held solely in trust by GRANTEE for the sole benefit of the DISTRICT. The parties further agree that said Grant Funds must be returned within twenty (20) business days after the expiration of the aforementioned expenditure deadline.

**7. REDUCTION/REIMBURSEMENT OF GRANT FUNDS:** The parties agree that the DISTRICT may reduce, suspend or terminate to any degree the payment or amount of the Grant Funds provided hereunder if the DISTRICT determines, in its sole and absolute discretion, that GRANTEE did not use, or is not using, the Grant Funds for the purpose(s) awarded hereunder nor satisfying the objectives of the Grant. GRANTEE hereby expressly waives any and all claims against the DISTRICT for damages which may arise from the termination, suspension or reduction of the Grant Funds awarded hereunder by the DISTRICT. GRANTEE further agrees to immediately reimburse all Grant Funds received from DISTRICT if the DISTRICT determines that any such Grant Funds were not utilized by GRANTEE for their intended purpose.

**8. OTHER FUNDING SOURCES:** If requested by the DISTRICT, the GRANTEE must make information available to DISTRICT, within a reasonable period of time set by DISTRICT, pertaining to other funding sources or collaborators for the GRANTEE Program or services which receive any of the Grant Funds.

**9. EVALUATION/OUTCOMES REPORTING:**

GRANTEE must cooperate in efforts undertaken by DISTRICT to evaluate GRANTEE's effectiveness and use of the Grant Funds, which in some cases may include GRANTEE's participation in and compliance with on-site evaluation and grant monitoring procedures, including interviews of GRANTEE's staff by the DISTRICT, usually when Grant Funds are awarded for purposes other than to fund acquisition or upgrading of equipment.

GRANTEE must submit to DISTRICT interim reports and a final report, including narrative information and full financial accounting of the expenditure of all of the Grant Funds, according to the report schedule set forth in this

Agreement. All GRANTEE reports shall become the property of DISTRICT. Report forms and guidelines provided by the DISTRICT, if any, must be utilized by GRANTEE, otherwise the GRANTEE's report must, at a minimum, contain the following information (if applicable):

- (i) How the Grant Funds were used, with documentation of the expenditure of Grant Funds.
- (ii) Pertinent data regarding:
  - (A) progress in achieving the objectives of the grant; and
  - (B) attainment of the goals set forth in the timetable for the use of the Grant Funds.
- (iii) The status of the Program to which Grant Funds were expended, including:
  - (A) the financial performance of the Program; and
  - (B) the availability of public and private funding or other assistance for the long-term viability of the Program; and
  - (C) the intended use of remaining Grant Funds, if any.
- (iv) A signed certification from the chief administrator or chief operations officer of the GRANTEE, certifying the accuracy of the report and certifying the GRANTEE's compliance, during the reporting period, with the terms of this Agreement.

Any payments scheduled for release subsequent to the due date of a report shall be held by DISTRICT until the report has been submitted and approved. DISTRICT in its discretion may also require an audit of the program or project which utilized Grant Funds, which may include the review of programmatic as well as financial records. The expense of any such discretionary audit undertaken by DISTRICT will be borne by DISTRICT. Any other audit(s) which may be expressly required under this Agreement, if any, shall be at the expense of the GRANTEE.

**10. WRITTEN REPORT SCHEDULE:** An interim and final reports must be made by GRANTEE to DISTRICT before the scheduled deadlines below. Failure to submit reports when due may be cause for immediate termination of this Agreement and thereupon any portion of the Grant Funds, which have been

received by the GRANTEE and have not been expended prior to the corresponding deadline in accordance with the provisions of this Agreement, shall be returned to the DISTRICT upon the DISTRICT's request. Reports must be approved by the governing body of the GRANTEE and must include relevant activity and information, which has not already been reported to the DISTRICT, occurring since the signing of this Agreement or the last interim report, whichever is later. The deadlines for submitting interim and final reports shall be no later than:

Interim Report(s): Quarterly (Jan. 1; Apr. 1; Jul. 1; and Oct. 1), required until the earlier of either the expenditure of all Grant Funds or the expiration of the deadline to expend all Grant Funds as specified elsewhere within this Article

Final Report: Thirty (30) business days after the earlier of either the expenditure of all Grant Funds or the expiration of the deadline to expend all Grant Funds as specified elsewhere within this Article.

**11. ATTRIBUTION:** GRANTEE agrees to comply with the DISTRICT's attribution requirements for the Grant Funds, which is attached hereto as **EXHIBIT C**.

**12. GRANT ANNOUNCEMENTS AND PUBLICITY:** Any written announcement or other publicity related to the Grant, which is prepared by GRANTEE, shall be first submitted to the Chair of the DISTRICT's governing Board for review and approval and, if prepared by the DISTRICT, shall be first submitted to the chief administrator or chief operations officer of the GRANTEE for review and approval which shall be deemed to have been issued after five business days if no written response has been provided. Any announcements and publicity must not indicate or otherwise imply in any way that the DISTRICT endorses the GRANTEE or its programs unless expressly approved by the governing body of the DISTRICT.

**13. OTHER OBLIGATIONS:** In authorizing the execution of this Agreement, the governing body of GRANTEE accepts legal responsibility to ensure that the Grant Funds provided by DISTRICT are allocated solely for the purpose for which the Grant was intended. GRANTEE agrees to become knowledgeable of the requirements of this Agreement and to be responsible for compliance with its terms. The parties agree that in no event shall DISTRICT be legally responsible or liable for GRANTEE's performance or failure to perform under the terms of this Agreement. GRANTEE agrees that DISTRICT may review, audit and/or inspect each GRANTEE Program which receives Grant Funds under this Agreement, for



compliance with the terms of this Agreement.

#### **IV. GENERAL TERMS**

##### **14. INDEPENDENT CONTRACTOR STATUS:**

(a) This Agreement is entered into by both parties with the express understanding that GRANTEE will perform all activities or services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the GRANTEE or any of its agents, employees or officers, as an agent, employee or officer of DISTRICT.

(b) GRANTEE agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of DISTRICT.

(c) Notwithstanding this independent contractor relationship, DISTRICT shall have the right to monitor and evaluate the performance of GRANTEE to assure compliance with this Agreement.

**15. COMPLIANCE WITH LAW:** GRANTEE shall undertake all activity required hereunder in accordance with all applicable federal, state and local laws, regulations and directives including, without limitation and as applicable, the Health Insurance Portability and Accountability Act (“HIPAA”) and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (the “HIPAA regulations”). With respect to GRANTEE’s employees, GRANTEE shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance and discrimination in employment. GRANTEE confirms to DISTRICT that the GRANTEE has fully complied with all applicable federal, state and local laws, regulations, rules and directives related to DISTRICT’S award of the Grant Funds to GRANTEE for use in the Program.

**16. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be deemed to be performed in the City of Kingsburg, California.

**17. RECORDS AND AUDIT:** GRANTEE shall maintain complete and accurate records with respect to the activities, services rendered, if any, and the costs incurred under this Agreement. In addition, GRANTEE shall maintain complete and accurate records with respect to each and all payments to employees, contractors and vendors made with any Grant Funds. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, GRANTEE

shall make such records available within the City of Kingsburg, California to DISTRICT's auditor and to the same's agents and representatives, for the purpose of auditing and/or copying such records, for a period of no less than five (5) years from the date of final payment under this Agreement. GRANTEE shall comply with all applicable laws and, if GRANTEE is a local public entity, shall comply with the most recent edition of the Local Government Records Management Guidelines of the California Secretary of State as applicable.

**18. CONFLICT OF INTEREST:**

(a) GRANTEE agrees to, at all times during the performance of this Agreement, comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to Government Code §§ 1090 et seq., and the Political Reform Act, Government Code §§ 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including GRANTEE for this purpose, from making any decision on behalf of DISTRICT in which such officer, employee or consultant/GRANTEE has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/GRANTEE participates in or influences any DISTRICT decision which has the potential to confer any pecuniary benefit on GRANTEE or any business firm in which GRANTEE has an interest, with certain narrow exceptions.

(b) GRANTEE agrees that if any facts come to its attention which raise any questions as to the applicability of conflict-of-interest laws, it will immediately inform the DISTRICT designated representative and provide all information needed for resolution of this question.

**19. INSURANCE:** Prior to approval of this Agreement by DISTRICT, GRANTEE shall file with the Secretary of the DISTRICT evidence of the required insurance as set forth in **EXHIBIT D** attached.

**20. INDEMNIFICATION:** GRANTEE shall hold harmless, defend and indemnify DISTRICT, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising in any way from, or in connection with, the performance by GRANTEE or its agents, officers and employees under this Agreement, GRANTEE's use of any equipment funded in whole or in part under this Agreement and/or for GRANTEE's receipt and/or use of Grant Funds from DISTRICT. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

## **21. TERMINATION:**

(a) Without Cause: DISTRICT will have the right to terminate this Agreement without cause by giving ten (10) business days of prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. Such termination shall only operate prospectively. Grant Funds must not be used to pay, reimburse or otherwise satisfy any expense(s) incurred by the GRANTEE after the GRANTEE's receipt of a notice of termination under this Agreement.

(b) With Cause: This Agreement may be terminated by DISTRICT should the GRANTEE:

- (1) be adjudged a bankrupt;
- (2) become insolvent or have a receiver appointed;
- (3) make a general assignment for the benefit of creditors;
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement;
- (5) materially breach this Agreement;
- (6) material misrepresentation, either by GRANTEE or anyone acting on GRANTEE's behalf, as to any matter related in any way to DISTRICT's decision to provide Grant Funds to GRANTEE, or
- (7) other misconduct or circumstances which, in the discretion of the DISTRICT, either impairs the ability of GRANTEE to competently perform the activities and/or services (if any) funded under this Agreement, or expose the DISTRICT to an unreasonable risk of liability; or
- (8) Non-Government Entities: Upon any change of ownership of the GRANTEE which has not been approved by the DISTRICT, provided that such approval shall not be unreasonably withheld so long as the surviving entity agrees to satisfy the obligations of the GRANTEE under this Agreement. A "change of ownership" shall include any merger by the GRANTEE with any other person or entity, any acquisition of all or substantially all of the assets or operations of the GRANTEE or any conversion or other change in the corporate status of the GRANTEE.

Sanctions undertaken will be the possible rejection of future proposals based upon specific causes of non-performance.

(c) **Effects of Termination:** Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where GRANTEE's funding hereunder has been terminated by the DISTRICT, said termination will not affect any rights of the DISTRICT to recover damages against the GRANTEE.

(d) **Suspension of Performance:** Independent of any right to terminate this Agreement, the DISTRICT may immediately suspend performance by GRANTEE, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by GRANTEE to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

**22. SUBJECT TO FUNDING:** If funding for this Agreement is derived from any State or federal grant or funds, or property tax revenues, the DISTRICT reserves the right to reduce the level of funding hereunder to match reduced levels of state, federal or property funding to DISTRICT, or at the DISTRICT's option, DISTRICT may terminate this Agreement, should the funding source no longer be available or the amount be reduced.

**23. NOTICES:**

(a) Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

**DISTRICT:**

Board Chairman  
**KINGSBURG TRI-COUNTY  
HEALTH CARE DISTRICT**  
1425 Marion Street  
Kingsburg, California 93631  
559-897-5841  
559-897-8645 fax

**With A Copy To:**

Moses Diaz, Esq., District General Counsel  
**PUBLIC INTEREST LAW FOUNDATION**  
A Professional Corporation  
2902 West Main Street  
Visalia, California 93291  
559-900-3500  
559-900-3555 fax

**GRANTEE:**

**With a Copy To:**

Tel

fax

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

**24. ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, DISTRICT is relying on the personal skill, expertise, training and experience of GRANTEE and GRANTEE's employees and no part of this Agreement may be assigned or subcontracted by GRANTEE without the prior written consent of DISTRICT.

**25. FURTHER ASSURANCES:** Each party will execute any additional documents and perform any further acts which may be reasonably required to effect the purposes of this Agreement.

**26. CONSTRUCTION:** This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code § 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

**27. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

**28. NO THIRD-PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other person or entity, other than a party hereto, with any enforceable legal or equitable benefit, right or remedy.

**29. WAIVERS:** The failure of DISTRICT to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by DISTRICT of either performance or return of grant funds in lieu thereof shall not be considered to be a waiver of any preceding breach of the Agreement by the other GRANTEE.

**30. EXHIBITS AND RECITALS:** The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**31. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this

Agreement is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the party whose material benefit(s) is adversely affected. In all other cases the remainder of the Agreement shall continue in full force and effect.

**32. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between the parties hereto as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

**33. ASSURANCES OF NON-DISCRIMINATION:** GRANTEE shall not discriminate in employment or in the provision of its services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

**34. ATTORNEYS' FEES:** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

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[SIGNATURES ON NEXT PAGE]

**GRANTEE:**

APPROVED AS TO FORM:

\_\_\_\_\_  
Rick Jackson, Board President (date)

\_\_\_\_\_  
KJUHSD's Legal Counsel (date)

**ATTEST:**

Authorized by action of the Governing Board of the **Kingsburg Joint Union High School District** at its meeting on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mike Serpa, Board Clerk (date)

**GRANTOR:**

APPROVED AS TO FORM:

\_\_\_\_\_  
Arlie Rogers, Board Chairman (date)

\_\_\_\_\_  
Moses Diaz, General Counsel (date)

**ATTEST:**

\_\_\_\_\_  
Shereme Watson, (date)  
Deputy Board Secretary

**EXHIBIT A**

**HEALTH SERVICE, PROGRAM OR  
EQUIPMENT TO BE GRANT FUNDED**

The GRANTEE shall furnish the following services or program, or if the grant is for equipment, then GRANTEE shall either purchase and install the following facilities and/or equipment to be used, for health services or programs:

<b>HEALTH SERVICE, PROGRAM, FACILITY OR EQUIPMENT (include make, model, etc.)</b>		<b>DATE</b>	<b>COST Not to Exceed</b>
1	Resurfaced athletic track at Kingsburg High School, for High School and Public Use.	FY2021-22	\$161,870.00
2	-----	-----	-----

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**EXHIBIT B**  
**SCHEDULE OF PAYMENTS**

In accordance with the terms of this Agreement, the DISTRICT shall disburse the following payment(s) to the GRANTEE:

	<b>DATE</b>	<b>PURPOSE</b>	<b>AMOUNT</b>
1	Within 30 days after grant agreement is fully signed.	Lump sum payment for qualifying items specified within <b>EXHIBIT A</b> . Alternatively, during the term of this Agreement, GRANTEE may elect to pay for said items and then subsequently request reimbursement, in writing, within 180 days after paying for said items.	Up to \$161,870.00
2	---	-----	---

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**EXHIBIT C**  
**GRANT ATTRIBUTION REQUIREMENTS**

**1. Attribution Wording**

Attribution for DISTRICT-funded programs or equipment shall be as follows:  
“Made possible by funding from Kingsburg Tri-County Health Care District” or  
“Funded by Kingsburg Tri-County Health Care District”.

**2. Written References to Particular DISTRICT-Funded Equipment**

All written informational materials (excluding ordinary letters, emails, text messages and other similar correspondence), whether in hardcopy or in electronic format, such as brochures, workbooks, posters, videos, curricula, webpages or PowerPoint presentations, which depict or refer to any particular GRANTEE equipment which was acquired or upgraded with DISTRICT Grant Funds in excess of \$4,999 must include the attribution wording.

**3. Promotional Materials**

District attribution must also be included on promotional items such as posters, flyers, banners and other types of signage which depict or refer to any particular GRANTEE equipment which was acquired or upgraded with DISTRICT Grant Funds in excess of \$4,999.

**4. Media Materials and Activities**

Attribution to the District shall be included in any written informational materials distributed to the media for the purpose of publicizing a District-funded program or any particular GRANTEE equipment which was acquired or upgraded with DISTRICT Grant Funds in excess of \$4,999. This information may include news releases and advisories, public service announcements (PSAs), television and radio advertisements and calendar/event listings.

Media and publicity activities, such as news conferences, story pitching, press interviews, editorial board meetings and promotional events shall include reference to the District’s program support. As a courtesy, the District would appreciate notification of these activities at least two (2) weeks in advance, whenever possible. Please send to the District copies of any press coverage of District-funded programs.

**5. Logo Usage**

Use of the DISTRICT’s logo is permitted and encouraged. Logos can be provided in print and electronic formats. Logos will be provided by DISTRICT upon initial grant funding and at GRANTEE’s request thereafter. Graphic standards for logos shall be adhered to as provided by DISTRICT. Requests for logo should be directed to the administration office of the DISTRICT.

**6. Photograph Consent**

**GRANTEE must permit photography of DISTRICT-funded programs or equipment to be taken by any DISTRICT-designated photographer at DISTRICT's expense, and consents to usage of such photographs on DISTRICT's website and other materials designed to inform and educate the public about the DISTRICT.**

**EXHIBIT D**  
**INSURANCE REQUIREMENTS**

GRANTEE must provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise in any way from, or in connection with, performance of the Agreement by the GRANTEE, its agents, representatives, employees or subcontractors, if applicable, including without limitation each use of the grant funding provided under the Agreement.

**A. Minimum Scope & Limits of Insurance**

1. Coverage at least as broad as Commercial General Liability Insurance of one million dollars (\$1,000,000) combined single limit per occurrence. If the annual aggregate applies it must be no less than two million dollars (\$2,000,000).
2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence.
3. Workers' Compensation and Employer's Liability Insurance as required by law.
4. Professional Errors and Omissions Insurance of \$1,000,000 (unless expressly waived by DISTRICT's chief executive officer).
5. Work and Materials Insurance (if applicable).
  - a. For up to twenty-five thousand dollars (\$25,000) for any loss on contracts for remodeling, renovation, alterations or maintenance of existing buildings.
  - b. For 100% of the contract value for all bridge construction and new construction up to two hundred thousand dollars (\$250,000). See chief executive officer for construction over \$250,000.

**B. Specific Provisions of the Certificate**

1. The Certificate of Insurance for General Liability, Comprehensive Automobile Liability Insurance and Professional Errors and Omissions Insurance must satisfy the following requirements:
  - a. Name the DISTRICT, its officers, agents, employees and volunteers, individually and collectively, as additional insureds.

b. State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by DISTRICT shall be excess.

c. Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the DISTRICT.

2. The Certificate of Insurance for Workers Compensation, must include the following waiver of subrogation:

a. Waiver of Subrogation: “[GRANTEE] waives all rights against the DISTRICT and its agents, officers, and employees for recovery of damages to the extent such damages are covered by the workers’ compensation and employer’s liability insurance.”

#### C. Deductibles and Self-Insured Retentions

The DISTRICT’s chief executive officer must approve in writing any deductible or self-insured retention that exceeds one hundred thousand dollars (\$100,000).

#### D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California, any waiver of these standards are subject to approval by the DISTRICT or its chief executive officer or designee.

#### E. Verification of Coverage

Prior to the DISTRICT’s approval of the agreement for this Program, the GRANTEE shall file with DISTRICT’s Secretary, certificates of insurance with original endorsements effecting coverage in a form acceptable to the DISTRICT. The DISTRICT reserves the right to require certified copies of all required insurance policies at any time.

**ISSUE:**

Presented to the Board is the CMAS Contract Agreement Between Kingsburg Joint Union High School District and Beynon Sports Surfaces, Inc. for the All-Weather Track Resurfacing at the Kingsburg High School stadium in the amount of \$355,241.00.

**ACTION:**

Approve or deny the CMAS Contract Agreement Between Kingsburg Joint Union High School District and Beynon Sports Surfaces, Inc. for the All-Weather Track Resurfacing.

**RECOMMENDATION:**

Recommend approval

**FOR BOARD ACTION:**

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Thomsen: \_\_\_\_\_ Nagle: \_\_\_\_\_ Lunde: \_\_\_\_\_ Serpa: \_\_\_\_\_ Jackson: \_\_\_\_\_

**CMAS CONTRACT AGREEMENT**

COPY

This is an agreement between Owner and Contractor, to perform the work identified in Article 2 in accordance with the proposals and jobsite meetings up to and including June 22, 2021

**PROJECT:** All-Weather Track Resurfacing  
 Kingsburg High School  
 1900 18<sup>th</sup> Ave  
 Kingsburg, CA 93631

**OWNER:** Kingsburg Joint Union High School District  
 1900 18<sup>th</sup> Ave  
 Kingsburg, CA 93631  
 (559) 896-6020 phone  
 (559) 419-6404 fax

**CONTRACTOR:** Beynon Sports Surfaces, Inc.  
 4668 N. Sonora Ave., Suite 101  
 Fresno, CA 93722  
 (559) 237-2590 phone  
 (559) 237-2431 fax

For the complete and faithful performance of the foregoing work and all of the terms and conditions of this agreement, Owner agrees to pay, or provide for payment, to Contractor the sum of:

**Three hundred thirty-one thousand two hundred and forty-one dollars** **\$331,241.00**

**Add FastTrack 3 Year Maintenance Program – Twenty-four thousand dollars** **\$ 24,000.00**

**Combined Total of:**

**Three hundred fifty-five thousand two hundred and forty-one dollars** **\$355,241.00**

In witness whereof, the parties have executed this Agreement the day and year first written above.

**Owner: Kingsburg Joint Union HS District**

**Contractor: Beynon Sports Surfaces, Inc.**

By: *D. Jho*

By: \_\_\_\_\_

Title: Superintendent

Title: Director of Operations, SW Region

Date: 6/28/21

Date: \_\_\_\_\_

CA License No. 883198: A, C-61/D-12, C-15  
 Beynon CMAS # 4-12-78-0063A  
 DIR Registration#: 1000004698

*DJ* Kingsburg Joint Union HSD  
 Initial

\_\_\_\_ Beynon Sports Surfaces, Inc.  
 Initial

## ARTICLE 1

**CONTRACT PAYMENT:** Owner agrees to pay Contractor for satisfactory performance of Contractor's work within 30 days from receipt of each invoice from Contractor.

## ARTICLE 2

**SCOPE OF WORK:** Contractor agrees to commence work herein described upon notification by Owner and to perform and complete such work in accordance with Owner's schedule.

SYNTHETIC TRACK RESURFACING	
<b>Description:</b>	New Synthetic Track Resurfacing
<b>Scope:</b>	Beynon Sports proposes to <ul style="list-style-type: none"><li>• Prep, repair and clean the existing track surface to ensure proper adhesion prior to resurfacing</li><li>• Resurface the existing track surface and sand pit covers with our BSS 2000 RE polyurethane embedded overlay system</li><li>• Supply and install 8 new takeoff boards (4 per runway)<ul style="list-style-type: none"><li>◦ Metal inserts with new wooden takeoff boards</li></ul></li></ul>
<b>Size:</b>	7576 Total Square Yards (existing track layout)
<b>Product:</b>	BSS 2000 RE (GSA / CMAS Line Item No. 141)
<b>Surface Colors:</b>	Mid Grey track oval and PV runway Gold relay zones, LJ runways and d-zone
<b>Texture:</b>	Embedded
<b>Thickness:</b>	5mm
<b>Warranty:</b>	5 Years (3 <sup>rd</sup> Party Insured – <i>Manufacturer and Installer</i> )
<b>Striping:</b>	All associated NFHS / CIF standard striping; lane lanes, event markings and lettering.
<b>Duration of Work:</b>	13 Working Days (Track Surfacing Crew) 3 Working Days (Separate Striping Crew)

### FastTrack 3 Maintenance Program (GSA / CMAS Line Item No. 198):

The FastTrack Maintenance Program is our exclusive customer care service program that is designed to keep your running track performing and looking it's best not just through the warranty period but through the life cycle of your synthetic running track. The 3 Year program includes the following:

- Two (2) deep surface track cleanings performed with our patented high pressure surface & scrub machine (with water)
- One (1) track sweeping to remove dirt and debris with the use of ride-along Tenant sweeper (without water)
- One (1) restripe of all existing striping (lane lines, event markings and lettering)
- Beynon Sports is a licensed contractor in the State of California # 883198 A, C-15, C-61 / D-12
- Beynon Sports CMAS #: 4-12-78-0063A and GSA # GS-07F-9631S
- Beynon Sports DIR Registration Number: 1000004698
- Beynon Sports acknowledges all Prevailing Wages, Applicable Taxes, Per Diem and Travel Time
- While surfacing and striping are being done, water systems must be curtailed, shut off or controlled so that no water falls on the track or event area surfaces
- Pricing includes 100% payment and performance bonds and all applicable CMAS fees

  
Initial



### ARTICLE 3

SCHEDULE OF WORK: Time is of the essence. Owner shall provide Contractor with any requested scheduling information of Contractor's work.

**Estimated Start Date: July 6, 2021**

**Estimated Substantial Completion Date (Surfacing): July 21, 2021**

**Estimated Final Completion Date (Striping): July 28, 2021**

Contractor recognizes that changes may be made in the Schedule of Work and agrees to comply with such changes without additional compensation.

Contractor shall coordinate its work with any and all other subcontractors and suppliers on the project so as not to delay or damage their performance, work or the project.

### ARTICLE 4

CHANGES: Owner, without nullifying this Agreement, may direct Contractor in writing to make changes to Contractor's work. Adjustments, if any, in the contract price or contract time resulting from such changes shall be set forth in a contract Change Order pursuant to the Contract Documents.

The Contractor shall not assign the work of this contract without the written consent of the Owner, nor subcontract the whole of this contract without the written consent of the Owner, nor further subcontract portions of this contract without written notification to the Owner.

### ARTICLE 5

LIQUIDATED DAMAGES: Time is of the essence. However, liquidated damages do not apply.

### ARTICLE 6

INSURANCE: Prior to the start of Contractor's work, Contractor shall furnish satisfactory evidence to verify compliance with and maintain in force for the duration of the work, Worker's Compensation Insurance and Comprehensive General Liability Insurance.

### ARTICLE 7

MEDIATION: Should any dispute arise between the two parties to this agreement, it is agreed that it will be submitted to a mediator agreed to by both parties as soon as such dispute arises, but in any event prior to commencement of arbitration or litigation. Both parties agree to exercise their best efforts in good faith to resolve all disputes in mediation.

### ARTICLE 8

SAFETY PRECAUTIONS AND PROCEDURES: Contractor shall take reasonable safety precautions with respect to performance of this contract, shall comply with safety measures initiated by Owner and with applicable laws, ordinances, rules, regulations and order of public authorities for the safety of persons or property in accordance with the requirements of the Prime Contract. Contractor shall report to Owner within three (3) days of any injury to any employee or agent of the Contractor, which occurred at this site.

**ARTICLE 9**

CHOICE OF LAW: The rights of the parties hereto and the provisions hereof shall be interpreted and construed according to the laws of the State of California. The parties consent to the exclusive jurisdiction and venue of the court of competent jurisdiction in the State of California, County of Fresno.

**ARTICLE 10**

OTHER PROVISIONS: This is a prevailing wage rate project. Certified Payroll is required. Owner to register the project and provide Contractor with a DIR Project #. No Union or Skilled and Trained Workforce requirements pertain to this work.



Initial

Kingsburg Joint Union HSD

Initial

Beynon Sports Surfaces, Inc.

State of California

**MULTIPLE AWARD SCHEDULE**  
**Beynon Sports Surfaces, Inc.**

CMAS NUMBER:	<b>4-12-78-0063A</b>
SUPPLEMENT NUMBER:	5
CMAS TERM DATES:	11/09/2016 through 08/06/2026
CMAS CATEGORY:	Non Information Technology Commodities
APPLICABLE TERMS & CONDITIONS:	December 1, 2017 ( <a href="http://www.dgs.ca.gov/-/media/Divisions/PD/Acquisitions/CMAS/Non-IT-Commodities-CMAS-Terms-and-Conditions.ashx?la=en&amp;hash=9AD54FF697C740F342E8B9B5BDEEDFC263632CB3">www.dgs.ca.gov/-/media/Divisions/PD/Acquisitions/CMAS/Non-IT-Commodities-CMAS-Terms-and-Conditions.ashx?la=en&amp;hash=9AD54FF697C740F342E8B9B5BDEEDFC263632CB3</a> )
MAXIMUM ORDER LIMIT:	State Agencies: <b>See Purchasing Authority Dollar Threshold provision</b> Local Government Agencies: <b>Unlimited</b>
FOR USE BY:	State & Local Government Agencies
BASE SCHEDULE #:	GS-07F-9631S
BASE SCHEDULE HOLDER:	FieldTurf USA, Inc.

This CMAS provides for the purchase, warranty, removal, disposal, installation, maintenance and repair of synthetic turf, athletic track surfaces, tennis courts, sport flooring, and playground surfaces. (See page 3 for the restrictions applicable to this CMAS.)

This supplement is to extend this CMAS through 08/06/2026. In addition, this supplement replaces in its entirety the existing California Multiple Award Schedule (CMAS). The most current Ordering Instructions and Special Provisions, CMAS Terms and Conditions, and products and/or services are included herein. All purchase orders issued by State agencies shall incorporate these Ordering Instructions and Special Provisions, and CMAS Terms and Conditions. Please review these provisions carefully because they have changed.

*Original Signature on File*

Effective Date: **05/24/2021**

**KATELYNNE LEISENRING, Program Analyst, California Multiple Award Schedules Unit**

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

NOTICE: Products and/or services on this CMAS may be available on a Mandatory Statewide Contracts. If this is the case, the use of this CMAS is restricted unless the State agency has an approved exemption as explained in the Statewide Contract User Instructions. Information regarding Statewide Contracts can be obtained at the: [Statewide Contract Index Listing](http://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Statewide-Contracts?search=statewide%20contract%20listing) ([www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Statewide-Contracts?search=statewide contract listing](http://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/Statewide-Contracts?search=statewide%20contract%20listing)). This requirement is not applicable to local government entities.

The services provided under this CMAS are only in support of the products covered by this CMAS.

Agency non-compliance with the requirements may result in the loss of delegated authority to use the CMAS program.

CMAS contractor non-compliance with the requirements may result in termination.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

**CMAS PRODUCT & SERVICE CODES**

Product & Service Codes listed below are for marketing purposes only. Review the base schedule for the products and/or services available.

Brand-Beynon  
Floor Cov-Sport Flooring  
Sport Surface-Synthetic Track

**AVAILABLE PRODUCTS AND/OR SERVICES**

All of the products in the base schedule are available within the scope of this CMAS.

The ordering agency must verify all products and/or services are currently available on the base General Services Administration (GSA) schedule. Access the GSA eLibrary at [www.gsaelibrary.gsa.gov](http://www.gsaelibrary.gsa.gov).

**EXCLUDED PRODUCTS AND/OR SERVICES**

Order-Level Materials are not available under this CMAS.

**ISSUE PURCHASE ORDER TO**

Agency purchase orders must be either mailed or emailed to the following:

**Beynon Sports Surfaces, Inc.  
4668 N. Sonora Avenue, Suite 101  
Fresno, CA 93722  
Attn: Karol Fair**

**E-mail: [kfair@beynonsports.com](mailto:kfair@beynonsports.com)**

Agencies with questions regarding products and/or services may contact the CMAS contractor as follows:

**Contact: Karol Fair  
Phone: (559) 647-4289  
E-mail: [kfair@beynonsports.com](mailto:kfair@beynonsports.com)**

**TOP 500 DELINQUENT TAXPAYERS**

In accordance with Public Contract Code (PCC) § 10295.4, and prior to placing an order for non-IT goods and/or services, **agencies must verify** with the Franchise Tax Board and the California Department of Tax and Fee Administration that this CMAS contractor's name does not appear on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. **See next paragraph for information.**

The Franchise Tax Board's list of Top 500 Delinquent Taxpayers is available at [www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/index.html](http://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/index.html).

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

The California Department of Tax and Fee Administration's list of Top 500 Sales & Use Tax Delinquencies in California is available at [www.cdtfa.ca.gov/taxes-and-fees/top500.htm](http://www.cdtfa.ca.gov/taxes-and-fees/top500.htm).

**CALIFORNIA SELLER'S PERMIT**

The CMAS contractor's California Seller's Permit Number is 102206625. Prior to placing an order with this company, agencies must verify that this permit is still valid at the California Department of Tax and Fee Administration website ([cdtfa.ca.gov](http://cdtfa.ca.gov)).

**CMAS PRICES**

The maximum prices allowed for the products and/or services available are those set forth in the base schedule.

The ordering agency is encouraged to seek prices lower than those in the base schedule. When responding to an agency's Request for Offer (RFO), the CMAS contractor can offer lower prices to be competitive.

**PRICE DISCOUNTS**

This CMAS contains prompt payment discounts when full payment is received within 10 days or less of installation completion. See the base schedule for the specific percent of discount.

**DARFUR CONTRACTING ACT**

This CMAS contractor has certified compliance to the Darfur Contracting Act, per Public Contract Code (PCC) § 10475, et seq. It is the agency's responsibility to verify that the contractor has a Darfur Contracting Act Certification on file.

**CALIFORNIA CIVIL RIGHTS LAW CERTIFICATION**

Pursuant to Public Contract Code section 2010, effective January 1, 2017, applicants must certify their compliance with the California Civil Rights laws and Employer Discriminatory Policies (section 51 of the Civil Code, section 12960 of the Government Code). It is the agency's responsibility to verify that the contractor has a California Civil Rights Law Certification on file.

**WARRANTY**

For warranties, see the base schedule, the CMAS Terms and Conditions, General Provisions, and CMAS Warranty.

**DELIVERY**

60 days after receipt of order, or as negotiated between agency and CMAS contractor and included in the purchase order, or as otherwise stipulated in the contract.

**SHIPPING INSTRUCTIONS**

F.O.B. (Free On Board) Destination. Seller pays the freight charges.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

**PURCHASING AUTHORITY DOLLAR THRESHOLD**

Order limits for the purchase of goods and/or services is determined by the individual agency purchasing authority threshold.

No CMAS order may be executed by a State agency that exceeds that agency's purchasing authority threshold. State agencies with approved purchasing authority, along with their dollar thresholds can be obtained at the List of State Departments with Approved Purchasing Authority website ([www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/List-of-State-Departments-with-Approved-Purchasing-Authority](http://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/List-of-State-Departments-with-Approved-Purchasing-Authority)).

**HOW TO USE CMAS**

Agencies must adhere to the detailed requirements in the State Contracting Manual (SCM) when using CMAS. The requirements for the following bullets are in the SCM, Volume 2, Chapter 6 (for non-IT), the SCM, Volume 3, Chapter 6 (for IT), and the SCM, Volume FISCal, Chapter 5 (FISCal):

- Develop a Request for Offer, which includes a Scope of Work (SOW), and Bidder Declaration form. For information on the Bidder Declaration requirements, see the SCM, Volume 2, Section 3.5.7 and Volume 3, Section 3.4.7.
- Search for potential CMAS contractors on the CMAS website ([www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules](http://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules)) and select "Find a CMAS Contractor."
- Solicit offers from a minimum of 3 CMAS contractors including one small business and/or DVBE, if available, who are authorized to sell the products and/or services needed.
- If soliciting offers from a certified DVBE, include the Disabled Veteran Business Enterprise Declarations form (Standard 843) in the Request for Offer. This declaration must be completed and returned by the DVBE prime contractor and/or any DVBE subcontractors. (See the SCM Volumes 2, 3, and FISCal, Chapter 3).
- This is not a bid transaction, so the small business preference, DVBE incentives, protest language, intents to award, evaluation criteria, advertising, etc., are not applicable.
- If less than 3 offers are received, State agencies must document their file with the reasons why the other suppliers solicited did not respond with an offer.
- Assess the offers received using best value methodology, with cost as one of the criteria.
- Issue a Purchase Order to the selected CMAS contractor.
- For CMAS transactions under \$10,000, only one offer is required if the State agency can establish and document that the price is fair and reasonable. The fair and reasonable method can only be used for non-customizable purchases.

Local governments set their own order limits, and are not bound by the order limits on the cover page of this CMAS.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

**SPLITTING ORDERS**

Splitting orders to avoid any monetary limitations is prohibited.

Do not circumvent normal procurement methods by splitting purchases into a series of delegated purchase orders, per Public Contract Code (PCC) § 10329.

Splitting a project into small projects to avoid either fiscal or procedural controls is prohibited, per State Administrative Manual (SAM) § 4819.34.

**MINIMUM ORDER LIMITATION**

There is no minimum dollar value limitation on orders placed under this CMAS.

**ORDERING PROCEDURES**

**1. Purchase Orders**

All Ordering Agency purchase order documents executed under this CMAS must contain the applicable CMAS number as show on page 1.

1. State Departments:

Standard 65 Purchase Documents – State departments not transacting in FISCal must use the Purchasing Authority Purchase Order (Standard 65) for purchase execution. An electronic version of the Standard 65 is available at the DGS-PD website ([www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx](http://www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx)), select Standard STD Forms.

FISCAL Purchase Documents – State departments transacting in FISCal will follow the FISCal procurement and contracting procedures.

2. Local Governmental Departments:

Local governmental agencies may use their own purchase document for purchase execution.

The agency is required to complete and distribute the purchase order. For services, the agency shall modify the information contained on the order to include the service period (start and end date), and the monthly cost (or other intermittent cost), and any other information pertinent to the services being provided. The cost for each line item should be included in the order, not just system totals.

The contractor must immediately reject purchase orders that are not accurate. Discrepancies are to be negotiated and incorporated into the purchase order prior to the products and services being delivered.



**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

**2. Service and Delivery after CMAS Expiration**

The purchase order must be issued before the CMAS expires. However, delivery of the products or completion of the services may be after the CMAS expires (unless otherwise specifically stated in the purchase order).

**3. Multiple CMAS Agreements on a Single Purchase Order**

Agencies wishing to include multiple CMAS agreements on a single FISCAL purchase order must adhere to the following guidelines:

- All CMAS must be for the same CMAS contractor.
- The purchase order must go to one contractor location.
- Write the word "CMAS" in the space usually reserved for the contract number. On Standard 65's, this is at the top of the form. The word "CMAS" signifies that the purchase order contains items from multiple CMAS agreements. The purchasing agency may only use one bill code.
- For each individual CMAS (as differentiated by alpha suffix), the agency must identify and group together the CMAS number with the line items and subtotal per CMAS number (do not include tax in the subtotal), and sequentially identify each individual CMAS as Sub #1, Sub #2, Sub #3, etc. This facilitates accurate billing of administrative fees by the Procurement Division.
- The total of all items on the purchase order must not exceed the purchase order limit identified in the CMAS.
- Do not combine items from both non-IT and Information Technology CMAS agreements. A non-IT CMAS begin with the number "4" and an Information Technology CMAS begins with the number "3." The purchase order limits are different for these two types of CMAS agreements.

**4. Amendments to Agency's Purchase Orders**

Agency purchase orders cannot be amended if the CMAS has expired.

The SCM, Volumes 2 & 3, Chapter 6.A5.0 and SCM, Volume FISCAL, Chapter 5.A4.0 provides the following direction regarding amendments to all types of LPA purchase orders:

Original orders, which include options for changes (e.g., quantity or time), that were evaluated and considered in the selection for award during the RFO process, may be amended consistent with the terms of the original order, provided that the original order allowed for amendments. If the original order did not evaluate options, then amendments are not allowed unless an NCB is approved for those amendments.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

Amendments unique to non-IT services are covered in the SCM, Volume 2, Chapter 6.B2.9 and SCM, Volume FISCal, Chapter 5.A4.1 as follows:

If the original contract permitted amendments, but did not specify the changes (e.g., quantity or time), it may be amended, per Public Contract Code (PCC) § 10335 (d)(1). Only a contract may be amended once under this exemption. The time shall not exceed one year, or add not more than 30% of the original order value and may not exceed \$250,000. If the original contract did not have language permitting amendments, the NCB process must be followed.

Also, see the SCM, Volumes 2 & 3, Chapter 8, Topic 6, for more information on amending purchase orders.

**CMAS CONTRACTOR OWNERSHIP INFORMATION**

The CMAS contractor is a large business enterprise.

**SMALL BUSINESS MUST BE CONSIDERED**

Prior to placing orders under the CMAS program, State agencies shall whenever practicable first consider offers from small businesses that have established CMAS [Government Code (GC) § 14846(b)]. NOTE: The Department of General Services auditors will request substantiation of compliance with this requirement when agency files are reviewed.

CMAS Small Business and Disabled Veteran Partners lists ([www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules](http://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules)) can be found on the CMAS website by selecting "Find a CMAS Contractor".

In response to our commitment to increase participation by small businesses, the Department of General Services waives the administrative fee (a fee currently charged to customer agencies to support the CMAS program) for orders to certified small business enterprises.

See the current fees in the DGS Price Book at: [www.dgs.ca.gov/OFS/Price-Book](http://www.dgs.ca.gov/OFS/Price-Book).

**SMALL BUSINESS/DVBE - TRACKING**

State agencies are able to claim subcontracting dollars towards their SB or DVBE goals whenever the CMAS contractor subcontracts a commercially useful function to a certified SB or DVBE. The CMAS contractor will provide the ordering agency with the name of the SB or DVBE used and the dollar amount the ordering agency can apply towards its SB or DVBE goal.

**SMALL BUSINESS/DVBE - SUBCONTRACTING**

1. The amount an ordering agency can claim towards achieving its SB or DVBE goals is the dollar amount of the subcontract award made by the CMAS contractor to each SB or DVBE.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

2. The CMAS contractor will provide an ordering agency with the following information at the time the order is quoted:
  - a. The CMAS contractor will state that, as the prime contractor, it shall be responsible for the overall execution of the fulfillment of the order.
  - b. The CMAS contractor will indicate to the ordering agency how the order meets the SB or DVBE goal, as follows:
    - i. List the name of each company that is certified by the Office of Small Business and DVBE Services that it intends to subcontract a commercially useful function to; and
    - ii. Include the SB or DVBE certification number of each company listed, and attach a copy of each certification; and
    - iii. Indicate the dollar amount of each subcontract with a SB or DVBE that may be claimed by the ordering agency towards the SB or DVBE goal; and
    - iv. Indicate what commercially useful function the SB or DVBE subcontractor will be providing towards fulfillment of the order.
3. The ordering agency's purchase order must be addressed to the prime contractor, and the purchase order must reference the information provided by the prime contractor as outlined above.

**WITHHOLD LANGUAGE (SB588)**

**Option 1 – Withhold Language**

Upon delivery or completion of ordered goods or services, for which the Contractor committed to DVBE subcontractor participation, state departments shall require the Contractor to certify all the following:

1. The amount and percentage of work the Contractor committed to provide to one or more DVBEs under the requirements of the contract and the amount each DVBE received from the Contractor.
2. That all payments under the contract have been made to the DVBE. Upon request, the Contractor shall provide proof of payment for the work.

In accordance with the Military and Veterans Code 999.7, state departments shall withhold \$10,000 from the final payment, or the full final payment if less than \$10,000, if the Contractor fails to meet the certification requirements identified above. State departments shall notify the Contractor of their failure to meet the certification requirements and give the Contractor an opportunity to comply with the certification requirements. If after thirty (30) calendar days from the date of notice, the Contractor refuses to comply with the certification requirements, the state department shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000.

**CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)  
BEYNON SPORTS SURFACES, INC.  
CMAS NO. 4-12-78-0063A, SUPPLEMENT NO. 5**

**Option 2 – No Withhold Language**

During the contract term, and upon completion of the contract for which a DVBE subcontractor commitment was made, DGS-PD will require the Contractor to certify all participation commitments and payments under the contract have been made to the DVBE. Upon request by DGS-PD, the Contractor shall provide proof of payment for the work.

**NEW EQUIPMENT REQUIRED**

The State will procure new equipment. All equipment must be new (or warranted as newly manufactured) and the latest model in current production. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.

Where Federal Energy Management Program (FEMP) standards are available, all State agencies shall purchase only those products that meet the recommended standards. All products displaying the Energy Star label meet the FEMP standards.

**SPECIAL MANUFACTURED GOODS**

Any CMAS for goods to be manufactured by the CMAS contractor specifically for the State and not suitable for sale to others may require progress payments.

For a Non-IT goods CMAS, see the CMAS Non-IT Commodities Terms and Conditions, Provision 69, Progress Payments.

**PRODUCT INSTALLATION**

The CMAS contractor is fully responsible for all installation services performed under the CMAS. Product installations must be performed by manufacturer authorized personnel and meet manufacturer documented specifications.

The prime contractor, as well as any subcontractors, must hold any certifications and/or licenses required for the project.

**TRADE-IN EQUIPMENT**

Trade-ins at open market price may be considered. The product description and trade-in allowance must be identified on the purchase order.

Agencies are required to adhere to State Administrative Manual (SAM) § 3520 through 3520.6, Disposal of Personal Property and Surplus Personal Property, as applicable, when trade-ins are considered. A Property Survey Report, Standard 152, must be submitted for approval prior to disposition of any State-owned personal property, including general office furniture regardless of the acquisition value, or if the property was recorded or capitalized for accounting purposes.

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**STATE AGENCY BUY RECYCLED CAMPAIGN (SABRC)**

State ordering agencies are required to report purchases made within the eleven product categories in the California Department of Resources Recycling and Recovery's State Agency Buy Recycled Campaign (SABRC) per Public Contract Code sections 12200-12217.

Contractor will be required to complete and return a Recycled-Content Certification form ([www.calrecycle.ca.gov/contracts/forms](http://www.calrecycle.ca.gov/contracts/forms)) upon request by the state ordering agency.

**PUBLIC WORKS (INSTALLATION SERVICES ONLY)**

A public works contract is defined as an agreement for "the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind" in accordance with the Public Contract Code (PCC) § 1101. State agencies planning these types of projects need to review the SCM, Volume 1, Chapters 10 and 11 for applicable guidelines and regulations. Visit the Department of General Services (DGS), Real Estate Services Division (RESD) website ([www.dgs.ca.gov/RESD](http://www.dgs.ca.gov/RESD)) if you have questions about these types of transactions.

Agencies are to ensure that the applicable laws and codes pertaining to the contractor and sub-contractor licensing, prevailing wage rates, bonding, labor code requirements, etc., are adhered to by the prime contractor as well as any sub-contractor during performance under the CMAS purchase order.

The bond amount for public works is not less than 100% of the purchase order price.

**NOTE:** In accordance with Labor Code (LC) § 1773.2, the ordering agency is responsible for determining the appropriate craft, classification or type of worker needed for any contract for public works. Also, the agency is to specify the applicable prevailing wage rates as determined by the Director of the Department of Industrial Relations (DIR). In lieu of specifying the prevailing wage rates, the agency may include a statement on the order that the prevailing wage rates are on file at the agency's office, and will be made available upon request. The prevailing wage rates are available from the DIR at [www.dir.ca.gov](http://www.dir.ca.gov) (select Statistics & Research).

**Bonds:** For guidelines, see CMAS, General Terms and Conditions, Public Works Requirements.

**State Contractor's License:** Public works services can be obtained through CMAS only if incidental to the overall purchase order. If incidental public works services are included in the purchase order, prior to issuing the order agencies should contact the State Contractor's License Board ([www.cslb.ca.gov](http://www.cslb.ca.gov)) to verify that the Contractor's License shown below is still active and in good standing.

The CMAS contractor's California Contractor's License number is 883198. This is a Class C15, A, C-61, D12 license that is valid through 08/31/2022.

**NOT SPECIFICALLY PRICED (NSP) ITEMS**

The only time that open market/incidental, non-schedule items may be included in a CMAS order is when they fall under the parameters of the Not Specifically Priced (NSP) Items provision.

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CMAS contractors must be authorized providers of the hardware, software and/or services they offer under the Not Specifically Priced (NSP) Items provision.

Agency and CMAS contractor use of the NSP provision is subject to the following requirements:

1. Purchase orders containing only NSP items are prohibited.
2. A purchase order containing NSP items may be issued only if it results in the lowest overall alternative to the State.
3. NSP items shall be clearly identified in the order. Any product or service already specifically priced and included in the base schedule may not be identified as an NSP item.
4. NSP Installation Services: The CMAS contractor is fully responsible for all installation services performed under the CMAS. Product installations must be performed by manufacturer authorized personnel and meet manufacturer documented specifications. The prime contractor, as well as any subcontractors, must hold any certifications and/or licenses required for the project. The total dollar value of all installation services included in the purchase order cannot exceed the dollar value of the products included in the purchase order, nor can they exceed the NSP Maximum Order Limitation.
5. Maximum Order Limitation: For orders \$250,000, or less, the total dollar value of all NSP items included in a purchase order shall not exceed \$5,000. For orders exceeding \$250,000, and at the option of the contractor, the total dollar value of all NSP items in a purchase order shall not exceed 5% of the total cost of the order, or \$25,000 whichever is lower.
6. An NSP item included in an order issued against a CMAS is subject to all of the terms and conditions set forth in the contract.
7. Trade-ins, upgrades, involving the swapping of boards, are permissible, where the contract makes specific provisions for this action. In those instances, where it is permitted, the purchase order must include the replacement item and a notation that the purchase involves the swapping of a board.

The following NSP items **are specifically excluded** from any order issued under this CMAS:

1. Items not intended for use in directly supporting the priced items included in the same order. An NSP item must be subordinate to the specifically priced item that it is supporting. For example, a cable, which is not otherwise specifically priced in the base schedule, is subordinate to a specifically priced printer or facsimile machine, and is eligible to be an NSP item subject to that cable meeting the remaining NSP requirements. However, a printer or facsimile machine, which is not otherwise specifically priced in the base schedule, is not subordinate to a specifically priced cable, and is not eligible to be an NSP item.

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2. Supply type items, except for the minimum amount necessary to provide initial support to the priced items included in the same order.
3. Items that do not meet the Productive Use Requirements for information technology products, per the SCM, Volume 3, Chapter 2, Section 2.B6.2 and SCM, Volume FISCal, Chapter 2, Section 2.E3.2.
4. Any other item or class of items specifically excluded from the scope of this CMAS.
5. Public Works components NOT incidental to the total purchase order amount.
6. Products or services the CMAS contractor is NOT factory authorized or otherwise certified or trained to provide.
7. Follow-on consultant services that were previously recommended or suggested by the same CMAS contractor.

The CMAS contractor is required to reject purchase orders containing NSP items that do not conform to the above requirements. The CMAS contractor will promptly notify the agency issuing the non-conforming order of its non-acceptance and the reasons for its non-acceptance.

**STATE AND LOCAL GOVERNMENTS CAN USE CMAS**

State and local government agency use of CMAS is optional. A local government is any city, county, city and county, district, or other local governmental body or corporation, including UC, CSU, K-12 schools and community colleges empowered to expend public funds. While the State makes this CMAS available, each local government agency should make its own determination whether the CMAS program is consistent with their procurement policies and regulations.

**UPDATES AND/OR CHANGES**

A CMAS supplement is not required for updates and/or changes once the update and/or change becomes effective for the base schedule, except as follows:

- A CMAS supplement is required when the CMAS is based on specific products and/or services from another contractor's multiple award contract and the contractor wants to add a new manufacturer's products and/or services.
- A CMAS supplement is required for new federal contract terms and conditions that constitute a material difference from existing contract terms and conditions. A material change has a potentially significant effect on the delivery, quantity or quality of items provided, the amount paid to the contractor or on the cost to the State.

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**SELF-DELETING BASE SCHEDULE TERMS AND CONDITIONS**

Instructions, or terms and conditions that appear in the Special Items or other provisions of the base schedule and apply to the purchase, license, or rental (as applicable) of products or services by the US Government in the United States, and/or to any overseas location shall be self-deleting. (Example: "Examinations of Records" provision).

Federal regulations and standards, such as Federal Acquisition Regulation (FAR), Federal Information Resources Management Regulation (FIRMR), Federal Information Processing Standards (FIPS), General Services Administration Regulation (GSAR), or Federal Installment Payment Agreement (FIPA) shall be self-deleting. Federal blanket orders and small order procedures are not applicable.

**ORDER OF PRECEDENCE**

The CMAS Terms and Conditions takes precedence if there is a conflict between the terms and conditions of the contractor's base schedule, packaging, invoices, catalogs, brochures, technical data sheets or other documents (see CMAS Terms and Conditions, CONFLICT OF TERMS).

**APPLICABLE CODES, POLICIES AND GUIDELINES**

All California codes, policies, and guidelines are applicable. The use of CMAS does not reduce or relieve state agencies of their responsibility to meet statewide requirements regarding contracting or the procurement of goods or services. Most procurement and contract codes, policies, and guidelines are incorporated into CMAS agreements. Nonetheless, there is no guarantee that every possible requirement that pertains to all the different and unique State processes has been included.

**PAYMENTS AND INVOICES**

This CMAS contains prompt payment discounts when full payment is received within 10 days or less of installation completion. See the base schedule for the specific percent of discount.

**1. Payment Terms**

Payment terms for this CMAS are net 45 days.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code (GC) § 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (1) the date of acceptance of goods or performance of services; or (2) receipt of an undisputed invoice, whichever is later.



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**2. Payee Data Record (Standard 204)**

State Agencies not transacting in FISCal, must obtain a copy of the Payee Data Record (Standard 204) in order to process payments. State Ordering Agencies forward a copy of the Standard 204 to their accounting offices. Without the Standard 204, payment may be unnecessarily delayed. State Agencies should contact the CMAS contractor for copies of the Payee Data Record.

**3. DGS Administrative and Incentive Fees**

**Orders from State Agencies:**

The Department of General Services (DGS) will bill each State agency directly an administrative fee for use of CMAS. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS. This administrative fee is waived for CMAS purchase orders issued to California certified small businesses.

See the current administrative fees in the DGS Price Book ([www.dgs.ca.gov/OFS/Price-Book](http://www.dgs.ca.gov/OFS/Price-Book)).

**Orders from Local Government Agencies:**

CMAS contractors, who are not California certified small businesses, are required to remit to DGS an incentive fee equal to a percentage of the total of all local government agency orders (excluding sales tax and freight) placed against their CMAS. The incentive fee is in lieu of local government agencies being billed the referenced DGS administrative fee.

See the current incentive fees in the DGS Price Book.

This incentive fee is waived for CMAS purchase orders issued to California certified small businesses.

The check covering this fee shall be made payable to the Department of General Services, CMAS Unit, and mailed to the CMAS Unit along with the applicable Quarterly Report. See the provision in this CMAS entitled "Contractor Quarterly Report Process" for information on when and where to send these checks and reports.

**4. Contractor Invoices**

Unless otherwise stipulated, the CMAS contractor must send their invoices to the agency address set forth in the purchase order. Invoices shall be submitted in triplicate and shall include the following:

- CMAS number
- Agency purchase order number
- Agency Bill Code (State Only)
- Line item number
- Unit price
- Extended line item price
- Invoice total

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State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

The company name on the CMAS, purchase order and invoice must match or the State Controller's Office will not approve payment.

**5. Advance Payments**

Advance payment is allowed for services only under limited, narrowly defined circumstances, e.g., between specific departments and certain types of non-profit organizations, or when paying another government agency (Government Code (GC) § 11256 – 11263 and 11019).

It is NOT acceptable to pay in advance, except software maintenance and license fees, which are considered a subscription and may be paid in advance if a provision addressing payment in advance is included in the purchase order.

Software warranty upgrades and extensions may also be paid for in advance, one time.

**6. Credit Card**

The CMAS contractor does not accept the State of California credit card (CAL-Card).

**7. Lease/Purchase Analysis**

State agencies must complete a Lease/Purchase Analysis (LPA) to determine best value when contemplating a lease/rental, and retain a copy for future audit purposes (State Administrative Manual (SAM) § 3710).

For short-term rental equipment, the lease/purchase analysis must be approved by the Department of General Services, Office of legal Services.

The lease/purchase analysis for all other purchases must be approved by the Department of General Services, GS Smart State Financial Marketplace. Buyers may contact the GS Smart Administrator, Kris Bianchini via e-mail at [kristopher.bianchini@dgs.ca.gov](mailto:kristopher.bianchini@dgs.ca.gov) for further information.

**8. Leasing**

The State reserves the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS Smart and/or Lease Smart). If payment is via the financial marketplace, the Supplier will invoice the State and the State will approve the invoice and the selected Lender/Lessor for all product listed on the State's procurement document will pay the supplier on behalf of the State.

Buyers may contact the GS Smart Administrator, Kris Bianchini via e-mail at [kristopher.bianchini@dgs.ca.gov](mailto:kristopher.bianchini@dgs.ca.gov) for further information.

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**9. Maintenance Tax**

The California Department of Tax and Fee Administration has ruled that in accordance with Section 1546 of the Sales and Use Tax Regulations of the Business Taxes Law Guide, whenever optional maintenance contracts include consumable supplies, such supplies are subject to sales tax.

Generally, the State has two options:

1. For agreements that provide for only maintenance services (i.e., the furnishing of labor and parts necessary to maintain equipment), the charges for the provision of maintenance services are not taxable.
2. For agreements that provide for both maintenance services and consumable supply items (i.e., toner, developer, and staples, for example), the provision of the consumable supplies is considered a taxable sale of tangible personal property. Therefore, State agencies awarding optional maintenance contracts are responsible for paying the applicable sales tax on the consumable supplies used during the performance period of the maintenance contract.

The Contractor will be required to itemize the consumables being taxed for State accounting purposes.

**CONTRACTOR QUARTERLY REPORT PROCESS**

CMAS contractors are required to submit a detailed CMAS Business Activity Report on a quarterly basis to the CMAS Unit.

This report shall be mailed to:

Department of General Services  
Procurement Division – CMAS Unit  
Attention: Quarterly Report Processing  
PO Box 989052, MS #2-202  
West Sacramento, CA 95798-9052

Reports that include checks for incentive fees must be mailed and shall not be e-mailed. All other reports may be e-mailed to the attention of Quarterly Report Processing as follows:

CMAS Unit E-Mail: [cmas@dgs.ca.gov](mailto:cmas@dgs.ca.gov)

For the full instructions on completing and submitting CMAS Quarterly Business Activity Reports, and a soft copy of a blank quarterly report form, go to the CMAS website ([www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules](http://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Acquisitions/California-Multiple-Award-Schedules)) and then select "File a CMAS Quarterly Report".

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Important things to remember regarding CMAS Quarterly Business Activity Reports:

- A report is required for each CMAS, each quarter, even when no new purchase orders are received in the quarter.
- A separate report is required for each CMAS.
- **Each purchase order must be reported only once in the quarter identified by the purchase order date, regardless of when the services were performed, the products were delivered, the invoice was sent, or the payment was received.**
- Purchase orders from State and local government agencies must be separated on the report, as shown in the instructions.
- CMAS contractors must report the sales activity for all resellers listed on their CMAS.
- Any report that does not follow the required format or excludes required information will be deemed incomplete and returned to the CMAS contractor for corrections.
- Taxes and freight must not be included in the report.
- CMAS contractors must attach to their quarterly report a check covering the required incentive fee for all CMAS sales to local government agencies.
- New CMAS agreements and supplements will be approved only if the CMAS contractor has submitted all required quarterly reports and incentive fees.

CMAS Quarterly Business Activity Reports are due in the CMAS Unit within two weeks after the end of each quarter as shown below:

Quarter 1	January 1 to March 31	Due April 15
Quarter 2	April 1 to June 30	Due July 15
Quarter 3	July 1 to September 30	Due October 15
Quarter 4	October 1 to December 31	Due January 15

**CONTRACTOR QUARTERLY INCENTIVE FEES**

CMAS contractors, who are not California certified small businesses, are required to remit to DGS an incentive fee equal to a percentage of the total of all local government agency orders (excluding sales tax and freight) placed against their CMAS. The incentive fee is in lieu of local government agencies being billed the referenced DGS administrative fee.

See the current incentive fees in the DGS Price Book.

CMAS contractors cannot charge local government agencies an additional charge on a separate line item to cover the incentive fee. The CMAS contractor must include the incentive fee in the price of the products or services offered, and the line item prices must not exceed the applicable base schedule prices.

A local government agency is any city, county, district, or other local governmental body, including the California State University (CSU) and University of California (UC) systems, K-12 public schools and community colleges empowered to expend public funds.

This incentive fee is waived for CMAS purchase orders issued to California certified small businesses.

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The check covering this fee shall be made payable to the Department of General Services, CMAS Unit, and mailed to the CMAS Unit **along with the applicable Quarterly Report**. See the provision in this CMAS entitled "Contractor Quarterly Report Process" for information on when and where to send these checks and reports.

**OBTAINING COPY OF ORIGINAL CMAS AND SUPPLEMENTS**

A copy of a CMAS and supplements, if any, can be obtained at [Cal eProcure \(caleprocure.ca.gov\)](http://Cal eProcure (caleprocure.ca.gov)). A complete CMAS consists of the following:

- CMAS cover pages (which includes the signature page, ordering instructions and special provisions, and any attachments or exhibits as prepared by the CMAS Unit)
- CMAS Terms and Conditions.
- Base schedule terms and conditions
- Product/service listing and prices
- Supplements, if applicable.

It is important for the agency to confirm that the required products, services, and prices are included in the CMAS and are at or below base schedule rates. To streamline substantiation that the needed items are in the base schedule, the agencies should ask the CMAS contractor to identify the specific pages from the base schedule that include the required products, services, and prices. Agencies should save these pages for their file documentation.

**CONTRACTORS ACTING AS FISCAL AGENTS ARE PROHIBITED**

When a subcontractor ultimately provides all of the products or performs all of the services that a CMAS contractor has agreed to provide, and the prime contractor only handles the invoicing of expenditures, then the prime contractor's role becomes that of a fiscal agent because it is merely administrative in nature, and does not provide a Commercially Useful Function (CUF). It is unacceptable to use fiscal agents in this manner because the agency is paying unnecessary administrative costs.

**AGENCY RESPONSIBILITY**

Each agency is responsible for its own contracting program and purchasing decisions, including use of the CMAS program and associated outcomes.

This responsibility includes, but is not necessarily limited to, ensuring the necessity of the services, securing appropriate funding, complying with laws and policies, preparing the purchase order in a manner that safeguards the State's interests, obtaining required approvals, and documenting compliance with Government Code (GC) § 19130.b (3) for outsourcing services.

It is the responsibility of each agency to consult as applicable with their legal staff and contracting offices for advice depending upon the scope or complexity of the purchase order.

If you do not have legal services available to you within your agency, the DGS Office of Legal Services is available to provide services on a contractual basis.

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**CONFLICT OF INTEREST**

Agencies must evaluate the proposed purchase order to determine if there are any potential conflict of interest issues. See the CMAS Terms and Conditions, Conflict of Interest, for more information.

**FEDERAL DEBARMENT**

When federal funds are being expended, the agency is required to obtain (retain in file) a signed "Federal Debarment" certification from the CMAS contractor before the purchase order is issued.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants; responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**CONTRACTOR TRAVEL**

The Travel provision is not applicable to this CMAS.

**LIQUIDATED DAMAGES FOR LATE DELIVERY**

The value of the liquidated damages cannot be a penalty, must be mutually agreed upon by agency and contractor and included in the purchase order to be applicable.

**ACCEPTANCE TESTING CRITERIA**

If the agency wants to include acceptance testing for all newly installed technology systems, and individual equipment, and machines which are added or field modified (modification of a machine from one model to another) after a successful performance period, the test criteria must be included in the purchase order to be applicable.

**AMERICANS WITH DISABILITY ACT (ADA)**

Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22; California Government Code, Sections 11135, et seq.; and other federal and State laws, and Executive Orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities. See Attachment A for Procurement Division's ADA Compliance Policy of Nondiscrimination on the Basis of Disability.

Individual government agencies are responsible for self-compliance with ADA regulations.

Contractor sponsored events must provide reasonable accommodations for persons with disabilities.

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**DGS PROCUREMENT DIVISION CONTACT AND PHONE NUMBER**

Department of General Services  
Procurement Division, CMAS Unit  
707 Third Street, 2<sup>nd</sup> Floor, MS 2-202  
West Sacramento, CA 95605-2811

Phone # (916) 375-4365

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ATTACHMENT A

ADA NOTICE

Procurement Division (State Department of General Services)  
AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE  
POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

To meet and carry out compliance with the nondiscrimination requirements of the Americans with Disabilities Act (ADA), it is the policy of the Procurement Division (within the State Department of General Services) to make every effort to ensure that its programs, activities, and services are available to all persons, including persons with disabilities.

For persons with a disability needing a reasonable accommodation to participate in the Procurement process, or for persons having questions regarding reasonable accommodations for the Procurement process, please contact the Procurement Division at (916) 375-4400 (main office); the Procurement Division TTY/TDD (telephone device for the deaf) or California Relay Service numbers which are listed below. You may also contact directly the Procurement Division contact person who is handling this procurement.

**Important: To ensure that we can meet your need, it is best that we receive your request at least 10 working days before the scheduled event (i.e., meeting, conference, workshop, etc.) or deadline due-date for procurement documents.**

The Procurement Division TTY telephone numbers are:

Sacramento Office: 916-376-5127 (CALNET 480-5127)

The California Relay Service Telephone Numbers are:

Voice: 1-800-735-2922, or 7-1-1

Speech to Speech Service: 1-800-854-7784