

CONTRACT AMENDMENT NO. 7

Original Contract Number 201500002126

1. PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the "Contract") is entered into by and between International Business Machines Corp., 1 North Castle Drive, Armonk, New York, 10504, (hereinafter called "Contractor"), and the STATE OF COLORADO, acting by and through the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203 (hereinafter called "Department" or "State.")

2. EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date.") The Department shall not be liable to pay or reimburse Contractor for any performance hereunder, including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. FACTUAL RECITALS

The Parties entered into the Contract to develop and install the Business Intelligence and Data Management System (BIDM). The purpose of this amendment is to make corrections and modifications to the scope of work as follows: The table in Section 7, Subsection A was updated to reflect that certain funds were reallocated from State Fiscal Year (SFY) 2017-18 to SFY 2018-19. Exhibit C, Sections 37.2 to 37.2.5 were modified to include a SOC 2, Type II audit in addition to the SOC 1, Type II audit. Exhibit C, Section 46.1.5.9.2 is modified to show a new due date. Finally, Exhibit C, Section 46.1.7.4, was updated to remove a duplicate line, and to correct an erroneous date.

4. CONSIDERATION

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment.

5. LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

6. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. Section 7, Payments to Contractor, Subsection A, Maximum Amount, is hereby deleted in its entirety and replaced with the following:

- A. Maximum Amount

The maximum amount payable under this Contract to Contractor by the State is shown in the following table, as determined by the State from available funds. Payments to Contractor are limited to the unpaid obligated balance of the Contract at the rates set forth in Exhibit E, Compensation and Quality Maintenance Payments. The maximum amount payable by the State to Contractor is:

State Fiscal Year 2014-15	\$2,162,500.00
State Fiscal Year 2015-16	\$9,860,250.20
State Fiscal Year 2016-17	\$4,768,951.23
State Fiscal Year 2017-18	\$22,356,823.67
State Fiscal Year 2018-19	\$12,091,483.89
State Fiscal Year 2019-20	\$11,791,920.57
State Fiscal Year 2020-21	\$11,782,750.20
State Fiscal Year 2021-22	\$11,782,750.20
Total for All State Fiscal Years	\$86,597,429.96

The maximum amount payable by the State to Contractor for Exhibit C, Section 46 is:

State Fiscal Year 2015-16	\$160,000.00
State Fiscal Year 2016-17	\$306,082.00
State Fiscal Year 2017-18	\$321,032.60
State Fiscal Year 2018-19	\$144,246.00
Total for All State Fiscal Years of Project	\$931,360.60
<u>Payment Changes in Contract Amendment 7</u>	
State Fiscal Year 2017-18 Funds moved to State Fiscal Year 2018-19:	
\$69,246.00 Demonstration Year 3 Quality Assurance Test Results Document moved to account for new due date of September 30, 2018	

B. Exhibit C, Requirements, Sections 6.15 – 6.16.2 are hereby deleted in their entirety and replaced with the following, in part to correct a numbering error:

6.15. Reference Amendment 7-2019, Reference Amendment 6-2017: The Contractor shall provide a PMO Manager to replace the DDI Manager Key Personnel position. The PMO Manager shall be in place as of the execution of Contract Amendment 6 and shall continue through the BIDM Ongoing Operations and Enhancement Contract Stage.

6.15.1. The PMO Manager shall do all of the following:

6.15.1.1. Oversee projects managed by project managers within the BIDM Project.

- 6.15.1.2. Work with Contractor and Department staff to ensure that projects are delivered on schedule and within budget, consistent with Department expectations.
- 6.15.1.3. Manage activities related to Contractor resources, system development, and testing activities.
- 6.15.1.4. Be dedicated to the Contract full-time.
- 6.15.1.5. Reference Amendment 7-2019: Be located on-site at the Contractor's local facility.
- 6.15.2. Requirement Stage: BIDM Ongoing Operations and Enhancement Contract Stage

C. Exhibit C, Requirements, Sections 37.2 – 37.2.5, are hereby deleted in their entirety and replaced with the following:

- 37.2. Reference Amendment 7-2019, Reference #3862: The Contractor shall pay for an independent auditor to conduct an annual audit utilizing a current version of the Statement on Standards for Attestation Engagements (SSAE), System and Organization Controls (SOC) 1, Type II and SOC 2, Type 2 audit (collectively, "SOC 1/SOC 2, Type II"). The SOC 1, Type II audit shall address Work performed by the Contractor at the Contractor's facility and data center sites. The SOC 2, Type II audit shall address the Trust Principles of Availability and Security for the Data Centers in Sterling Virginia and Dallas, Texas. The SOC 2, Type II audit shall also address the Trust Principles of Security, Confidentiality, Integrity and Availability for the Advantage Suite tool
- 37.2.1. Reference Amendment 7-2019: The Contractor shall submit the SOC 1/SOC 2, Type II audit reports to the Department along with the following supplemental documentation:
 - 37.2.1.1. The Contractor's responses to the independent auditor's findings.
 - 37.2.1.2. A SOC 1/SOC 2, Type II Report Action Plan detailing how the Contractor will address and resolve all findings in the SOC 1/SOC 2, Type II report and the timeline for addressing each finding. The SOC Report Action Plan shall be subject to Department review and approval.
- 37.2.2. Reference Amendment 7-2019: The Contractor shall address and resolve all findings in the SOC 1/SOC 2, Type II report, and provide monthly updates in the Monthly Contract Management Report until the Department agrees that the Contractor has demonstrated that all findings have been properly addressed and resolved.
 - 37.2.2.1. Reference Amendment 7-2019: Contractor Approach: The Contractor shall pay an independent auditor to perform a SOC 1/SOC 2, Type II audit annually. The Contractor shall deliver the report to the Department.
 - 37.2.2.2. Reference Amendment 7-2019: The Contractor shall submit responses to the auditor's findings and a SOC 1/SOC 2, Type II Report Action Plan to the Department for review and approval.

- 37.2.2.3. Reference Amendment 7-2019: The Contractor shall address and resolve all findings in the SOC 1/SOC 2, Type II report and provide monthly updates in the Monthly Contract Management Report until the Department agrees that the Contractor has demonstrated that all findings have been properly addressed and resolved.
- 37. 2.2.4. Reference Amendment 7-2019: Deliverables: SOC 1/SOC 2, Type II Reports, Contractor's Responses to Findings, SOC 1/SOC 2, Type II Report Action Plan, and SOC 1/SOC 2, Type II report and provide monthly updates in the Monthly Contract Management Report until the Department agrees that the Contractor has demonstrated that all findings have been properly addressed and resolved.

D. Exhibit C, Requirements, Section 46.1.5.9.2, the due date for the MMP Demonstration Year 3 Quality Assurance Test Results Document, is hereby deleted in entirety and replaced as follows:

46.1.5.9.2. Reference Amendment 7-2019: DUE DATE: September 30, 2018

E. Exhibit C, Requirements, Section 46.1.7.4 is hereby deleted in its entirety and replaced as follows:

46.1.7.4. Reference Amendment 7-2019: The due date and payment for each deliverable for the MMP Project, other than deliverables associated with analytic consulting projects, is detailed in the following table:

DELIVERABLES	DATE DUE TO THE DEPARTMENT	AMOUNT OF TOTAL AWARDED FIXED PRICE THAT CONTRACTOR WILL BE PAID FOR DELIVERABLE
SFY 2015-16		
Project Plan (assumes 2/15/16 contract amendment execution)	2/29/2016	\$160,000.00
SFY 2015-16 TOTAL		\$160,000.00
SFY 2016-17		
Demonstration Year 1 Quality Assurance Test Results Document	As enumerated in the MMP Project Work Plan	\$69,246.00
Demonstration Year 1 Ad Hoc MMP Monitoring Report (Analytic Staff – 115 hours x \$146.40 per hour)	10/31/2016	\$16,836.00
Demonstration Year 1 administrative data measures	12/29/2016	\$170,000.00
Demonstration Year 2 Project Plan Update	1/17/2017	\$50,000.00
SFY 2016-17 TOTAL		\$306,082.00
SFY 2017-18		
Demonstration Year 2 Quality Assurance Test Results Document	9/30/2017	\$69,246.00
Demonstration Year 2 Measures	10/31/2017	\$90,000.00
Demonstration Year 3 Project Plan Update	2/28/2018	\$25,000.00
September 2017 MMP Prospective Eligibility File – Outbound Interface to CMS Contractor Maximus (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 4)	08/16/2017	\$4,750.20

<p>October 2017 MMP Prospective Eligibility File – Outbound Interface to CMS Contractor Maximus (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 4)</p>	<p>09/16/2017</p>	<p>\$4,750.20</p>
<p>November 2017 MMP Prospective Eligibility File – Outbound Interface to CMS Contractor Maximus (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 4)</p>	<p>10/16/2017</p>	<p>\$4,750.20</p>
<p>December 2017 MMP Prospective Eligibility File – Outbound Interface to CMS Contractor Maximus (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 4)</p>	<p>11/16/2017</p>	<p>\$4,750.20</p>
<p>MMP Retrospective Eligibility Finder File for Research Triangle Institute (RTI) For Demonstration Quarter Ending Aug. 2017 (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 3 for each file)</p>	<p>9/30/2017</p>	<p>\$6,333.60</p>
<p>MMP Retrospective Eligibility Finder File for Research Triangle Institute (RTI) For Demonstration Quarter Ending Nov. 2017 (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 3 for each file)</p>	<p>12/31/2017</p>	<p>\$6,333.60</p>

MMP Retrospective Eligibility Finder File for Research Triangle Institute (RTI) For Demonstration Quarter Ending Dec. 2017 (System/Interface Staff – 120 hours x \$150.80 per hour; Project Management Staff – 6 hours x \$150.80 per hour; \$19,000.80 total divided by 3 for each file)	1/31/2018	\$6,333.60
SFY 2017-18 TOTAL		\$222,247.60
SFY 2018-19		
Demonstration Year 3 Quality Assurance Test Results Document	9/30/2018	\$69,246.00
Demonstration Year 3 Measures	10/31/2018	\$75,000.00
SFY 2018-19 TOTAL		\$144,246.00
MMP PROJECT FIXED PRICE DELIVERABLES TOTAL		\$832,575.60

7. START DATE

This Amendment shall take effect on its Effective Date.

8. ORDER OF PRECEDENCE

Except for the Special Provisions and the HIPAA Business Associates Addendum, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

9. AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available to the Department by the federal government, state government and/or grantor.

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THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

CONTRACTOR:

International Business Machines Corporation

STATE OF COLORADO:

Jared Polis, Governor

By: Keith Gall

By: Kim Birmestefer

By: Keith Gall
VP, Southwest Region
Government Health and Human
Services - Watson Health

Kim Birmestefer
Executive Director; Department of Health
Care Policy and Financing

Date: 1/30/19

Date: 1/30/19

Keith Gall
Printed Name of Authorized Officer

LEGAL REVIEW:
Cynthia H. Coffman, Attorney General

By: _____

VP Southwest Region
Printed Title of Authorized Officer

Date: _____

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER:

Robert Jaros, CPA, MBA, JD

By: Greg Tanner

Greg Tanner, Controller, Department of Health
Care Policy and Financing

Date: 2/7/19