

SCO ID: 440-1909005000

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER  
**19-09005-000**

PURCHASING AUTHORITY NUMBER (if Applicable)  
**4440**

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

CONTRACTING AGENCY NAME

Department of State Hospitals - Statewide

CONTRACTOR NAME

Correctional Healthcare Associates, Inc

2. The term of this Agreement is:

START DATE

April 2, 2020

THROUGH END DATE

August 31, 2020

3. The maximum amount of this Agreement is:

\$147,670,547.20

One Hundred Forty Seven Million Six Hundred Seventy Thousand Five Hundred Forty Seven Dollars and Twenty Cents

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	12
Exhibit A	Healthcare Staffing Task Order Attachment 1	1
Exhibit B	Budget Detail and Payment Provisions	5
+ -	Exhibit C * General Terms and Conditions	*
+ -	Exhibit D Special Terms and Conditions	8
+ -	Exhibit E Confidentiality and Information Security Provisions	N/A
+ -	Exhibit F Information Privacy and Security Requirements (Non-HIPPA/HITECH Act Contracts)	7
+ -	Exhibit G Insurance Requirements	4
+ -	Exhibit H Federal Emergency Management Agency Provisions	3

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

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

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

**CONTRACTOR**

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

CONTRACTOR BUSINESS ADDRESS  
1860 Colorado Boulevard Std. 200

CITY  
Los Angeles

STATE  
CA

ZIP  
90041

PRINTED NAME OF PERSON SIGNING  
Robert Madrid, MD

TITLE  
President

DATE SIGNED

SCOID: 4440-1909005000

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES  
**STANDARD AGREEMENT**  
STD 213 (Rev. 03/2019)

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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Department of State Hospitals

CONTRACTING AGENCY ADDRESS

1600 9th Street, Room 101

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Robert Horsley

TITLE

BMB, Chief

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

6/5/2020

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROPRIATION

EXEMPTION (If Applicable)



**EXHIBIT A**  
**SCOPE OF WORK**

**1. CONTRACTED PARTIES**

A. Correctional Healthcare Associates, hereafter referred to as Contractor, agrees to provide temporary relief physician and non-physician clinical services through qualified staff to Department of State Hospitals (DSH) pursuant to the terms and conditions of this emergency Agreement. The existing services provided under Agreement 16-09001-000 began February 1, 2017 and remains in full force and effect. This emergency Agreement does not alter or amend the terms and conditions of the existing Agreement; however, this emergency Agreement expands and supplements the existing services.

**2. SERVICE LOCATIONS:**

A. The services shall be performed for DSH at the following location(s):

<input checked="" type="checkbox"/> DSH-Atascadero 10333 El Camino Real, P.O. Box 7001 Atascadero, CA 93423-7001	<input checked="" type="checkbox"/> DSH-Coalinga 24511 West Jayne Avenue P.O. 5000 Coalinga, CA 93210
<input checked="" type="checkbox"/> DSH-Metropolitan 11401 South Bloomfield Avenue Norwalk, CA 90650	<input checked="" type="checkbox"/> DSH-Patton 3102 East Highland Avenue Patton, CA 92369
DSH-Sacramento 1600 9 <sup>th</sup> Street, Room 101 Sacramento, CA 95814	<input checked="" type="checkbox"/> DSH-Napa 2100 Napa-Vallejo Highway Napa, CA 94588-6293

**3. SERVICE HOURS:**

The services shall be provided Monday through Sunday (seven-day week), twenty-four (24) hours per day, on an as-needed basis.

**4. CONTRACT TERM:**

This Agreement shall begin on April 2, 2020, and end at midnight on August 31, 2020, unless terminated earlier by mutual written agreement from the Contracted Parties, or by the termination provisions set forth in Exhibits C and/or D. This Agreement may be extended by mutual written agreement of the Contracted Parties.

**5. PROJECT REPRESENTATIVES:**

The project representatives during the term of this Agreement shall be:

Contractor –

CONTRACTOR MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: MHM Services of CA, LLC on behalf of Contractor		Section/Unit: MHM Services of CA, LLC on behalf of Contractor	
Attention: Anthony Zehring, Regional Director		Attention: Zulema Sweeney, Program Manager, CA Staffing	
Address: 1593 Spring Hill Road, Suite 610 Vienna, VA 22182		Address: 6041 N. First Street Fresno, CA 93710	
Phone:(844)646-2482	Fax: (800)246-6826	Phone: (559)286-0830	Fax: (559)385-2246
Email: <a href="mailto:tzehring@mhm-services.com">tzehring@mhm-services.com</a>		Email: <a href="mailto:zsweeney@mhm-services.com">zsweeney@mhm-services.com</a>	

Department of State Hospitals – Sacramento

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit:		Section/Unit:	
Attention: Ann Marie Santana, Manager		Attention: Daralynn Harrison, Analyst	
Address: 1600 9 <sup>th</sup> Street, Room 101 Sacramento, CA 95814		Address: 1600 9 <sup>th</sup> Street, Room 101 Sacramento, CA 95814	
Cell: (916)214-3440	Desk: (916)651-5299	Phone: (916) 562-2297	Fax:
Email: <a href="mailto:AnnMarie.Santana@dsh.ca.gov">AnnMarie.Santana@dsh.ca.gov</a>		Email: <a href="mailto:Daralynn.Harrison@dsh.ca.gov">Daralynn.Harrison@dsh.ca.gov</a>	

Department of State Hospitals – Atascadero

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: Central Medical Services		Section/Unit: Procurement	
Attention: Cara Lewelling, AGPA		Attention: David Fennell, MD	
Address: 10333 El Camino Real P.O. Box 7002 Atascadero, CA 93423-7002		Address: 10333 El Camino Real P.O. Box 7002 Atascadero, CA 93423-7002	
Phone:(805)468-2188	Fax: (805)468-2138	Phone: (805)468-2005	Fax:(805)468-2138
Email: <a href="mailto:Cara.Lewelling@dsh.ca.gov">Cara.Lewelling@dsh.ca.gov</a>		Email: <a href="mailto:David.Fennell@dsh.ca.gov">David.Fennell@dsh.ca.gov</a>	

Department of State Hospitals – Coalinga

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: Medical Director's Office		Section/Unit: Procurement	
Attention: Dr. Jonathan Hamrick		Attention: Elizabeth Moreno	
Address: 24511 West Jayne Avenue P.O. Box 5000 Coalinga, CA 93210		Address: 24511 West Jayne Avenue P.O. Box 5000 Coalinga, CA 93210	
Phone:(559)935-4270	Fax: (559)935-7118	Phone: (559)935-4033	Fax:
Email: <a href="mailto:Jonathan.Hamrick@dsh.ca.gov">Jonathan.Hamrick@dsh.ca.gov</a>		Email: <a href="mailto:Elizabeth.Moreno@dsh.ca.gov">Elizabeth.Moreno@dsh.ca.gov</a>	

Department of State Hospitals – Metropolitan

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: Medical Ancillary Services		Section/Unit: General Services	
Attention: Dr. Zakaria Boshra		Attention: Natalie Garcia	
Address: 11401 S. Bloomfield Avenue Norwalk, CA 90650		Address: 11401 S. Bloomfield Avenue Norwalk, CA 90650	
Phone:(562)651-4457	Fax: (562)929-1371	Phone: (562)474-2680	Fax:(562)863-7332
Email: <a href="mailto:Zakaria.Boshra@dsh.ca.gov">Zakaria.Boshra@dsh.ca.gov</a>		Email: <a href="mailto:Natalie.Garcia@dsh.ca.gov">Natalie.Garcia@dsh.ca.gov</a>	

Department of State Hospitals – Napa

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: Medical Ancillary Services		Section/Unit: General Services	
Attention: Jose Dante Santos, SRN		Attention: Pilot Smith	
Address: 2100 Napa-Vallejo Highway Napa, CA 94558		Address: 2100 Napa-Vallejo Highway Napa, CA 94558	
Phone:(707)253-5516	Fax:	Phone: (707)254-2433	Fax: (707)254-2425
Email: <a href="mailto:Jose.Santos@dsh.ca.gov">Jose.Santos@dsh.ca.gov</a>		Email: <a href="mailto:Pilot.Smith@dsh.ca.gov">Pilot.Smith@dsh.ca.gov</a>	

Department of State Hospitals – Patton

DSH CONTRACT MANAGER		ADMINISTRATIVE CONTACT	
Section/Unit: Medical Services		Section/Unit: Procurement	
Attention: Dr. Luzmin Inderias		Attention: Annette Calderon	
Address: 3102 E. Highland Avenue Patton, CA 92369		Address: 3102 E. Highland Avenue Patton, CA 92369	
Phone: (909)425-6920	Fax:	Phone: (909)425-7811	Fax: (909)425-6169
Email: <a href="mailto:Luzmin.Inderias@dsh.ca.gov">Luzmin.Inderias@dsh.ca.gov</a>		Email: <a href="mailto:Annette.Calderon@dsh.ca.gov">Annette.Calderon@dsh.ca.gov</a>	

Either party may make changes to the contact names or information above by giving written notice to the other party. Said changes shall not require an amendment to this Emergency Agreement.

**6. SUMMARY OF WORK TO BE PERFORMED:**

- A. Contractor shall provide temporary/relief physician and non-physician clinical referral services through qualified staff (hereafter, "Contractor's Employees") as required by this Emergency Agreement to the DSH.
- B. Services under this Emergency Agreement shall be used to provide temporary services when appropriate staffing levels cannot be maintained due to the COVID-19 State of Emergency declaration by the Governor on or about March 4, 2020. The DSH makes no guarantee of the estimated service needs that may be required under this Emergency Agreement.

### C. Designation Of The Applicable Agreement

1. When Contractor is asked to fill positions with Contractor's Employees for position categories and at service locations that are covered by the Agreement, Contractor shall provide the Contractor's Employees under the terms and conditions of the Agreement.
2. If the position categories at the service locations which are covered by the Agreement become fully staffed, and DSH requires additional positions due to the Covid-19 emergency, Contractor shall provide Contractor's Employees under the terms and conditions of this Emergency Agreement.
3. When Contractor is asked to fill positions with Contractor's Employees for position categories or at service locations that are not covered by the Agreement, Contractor shall provide the Contractor's Employees under the terms and conditions of this Emergency Agreement.
4. Contractor shall specify on the monthly invoice which Agreement is being triggered by use of the applicable contract number.

### 7. CONTRACTOR RESPONSIBILITIES:

- A. Contractor's obligation under this Emergency Agreement to provide services through qualified staff shall not be fulfilled by recruitment of current civil service employees; contracted employees under an existing registry who are performing the same services for DSH; nor retired civil service employees who have not reached the required hours for hire. **DSH reserves the right, in its sole and absolute discretion, to waive this requirement in whole or in part, during the emergency address of COVID 19**
- B. Contractor shall provide the services at the times and levels indicated in Section 3 above and herein Section 5. Contractor agrees that should DSH is able to hire civil service staff to perform some or all of these same services, Contractor shall cease to provide referral services to that degree and as instructed by the DSH Contract Manager.
- C. Contractor's Employees shall either be U.S. citizens, or possess an appropriate work permit, if not a U.S. citizen.
- D. Except for unanticipated events, such as a hospital emergency or lock-down, Contractor shall request pre-approval from the DSH Contract Manager or designee(s) prior to Contractor Employees performing any overtime work. Overtime must be pre-approved by the DSH Contract Manager or designee(s) and shall be documented in writing. Contractor's failure to obtain written pre-approval for overtime will result in the Contractor to be responsible for the payment of any unauthorized overtime to affected personnel. In the event of an unexpected event, Contractor shall obtain written authorization after the fact from the DSH Contract Manager or designee(s). In all instances where overtime was authorized, a copy of the written authorization must be submitted with the Contractor's monthly invoice. Where authorized, overtime shall be compensated at a rate not to exceed 150% of the hourly rate identified in Exhibit B, Budget Detail and Payment Provisions.
- E. Contractor agrees, for the purposes of this Emergency Agreement, qualified staff shall meet the licensure and experience qualifications for each of the classifications below as required pursuant to the California State Personnel Board (SPB). Contractor further

agrees to provide DSH with proof of all qualifications, as well as a resume or Curriculum Vitae (CV), or any other documentation requested by the DSH Contract Manager. Contractor also agrees that documentation of completed fit testing shall be supplied to the DSH Contract Manager for all staff supplied under this Emergency Agreement.

- F. Contracted physicians and surgeons shall be licensed by the Medical Board of California's licensing board as well as licensing Boards for Allied Health Care professionals providing services under this Agreement. Contractor further agrees to provide DSH with proof of all license, qualifications, certificates, or any other documentation as may be requested by the DSH Contract Manager for the listed physician and allied medical staffing needs:

1. Audiologist
2. Clinical Laboratory Assistant
3. Clinical Laboratory Technologist
4. Clinical Dietitian
5. Dentist
6. Dental Assistant
7. Director of Dietetics
8. Director of Dietetics, Assistant
9. Licensed Vocational Nurse
10. Nurse Practitioner
11. Occupational Therapist
12. Occupational Therapist Assistant
13. Pharmacist I
14. Pharmacist II
15. Pharmacy Technician
16. Phlebotomist
17. Physical Therapist II
18. Podiatrist
19. Physical Therapist Assistant
20. Physical Therapist I
21. Physical Therapist II
22. Psychiatric Technician
23. Psychiatrist
24. Psychologist
25. Physician / Surgeon
26. Radiologic Technologist
27. Rehabilitation Therapist
28. Registered Nurse
29. Registered Dietitian
30. Registered Dietitian
31. School Psychologist
32. Social Worker
33. Speech Pathologist
34. Substance Recovery Specialty Counselor

- G. Contractor, in the provision of temporary/relief physician and non-physician clinical services, shall ensure that Contractor's Employees adhere to all rules, policies, directives, guidelines, procedures, and protocols of DSH and those specific to the facility where Contractor's Employees shall perform physician and non-physician clinical services. This includes, but is not limited to:

1. Providing medical and physician services within DSH Standards of Care of a physician;
2. Contractor's Employees shall, in addition to DSH Standards of Care, provide services in accordance with California (hereafter "State") Licensing and Certification (Title 22, Division 5 of the California Code of Regulations), the Joint Commission requirements (where applicable), the generally accepted standard of care for each employee's profession, and their scope of licensure;
3. Contractor further agrees that while Contractor's Employees shall utilize their professional judgment and draw upon their training and education in the performance of services, DSH retains sole authority to determine the appropriate course of action for treatment of its patients;
4. Adhering to DSH's policy directives and procedures for ensuring confidentiality and obtaining patient consent;
5. Utilizing DSH forms or protocols for all medical and administrative needs;
6. Attending required meetings or briefings;
7. Providing direct physician services to patients, comprehensive evaluations, diagnosis and treatment, including prescribing and administering psychotropic medications and provide face to face therapy;
8. Preferentially prescribing medications listed in DSH pharmaceutical formulary, monitor medication, be aware of possible drug interactions and problems associated with pre-existing medical conditions, and at all times exercise his or her professional judgment in prescribing the appropriate medications;
9. Adhering to requirements and procedures pursuant to California law and regulations for the administration of involuntary psychotropic medications;
10. Providing medical specialty treatment referrals;
11. Consulting with DSH staff and patients on management of medications, where applicable;
12. Providing consultation, as necessary, on unusual, complex or serious cases, and present such cases to the appropriate clinical conference for advice;
13. Supplying on-going patient evaluation and prognosis;
14. Completing and signing applicable insurance claims, and providing any required documentation for insurance claims processing by the State or its 3rd party biller;
15. Making rounds and review individual patients' progress;
16. Providing and maintaining adequate medical documentation for the individual patient's medical record;



17. Providing follow-up services;
  18. Maintaining security of work area and work materials;
  19. Testifying at hearings and due process proceedings concerning his or her patients and assist counsel in the preparation of the hearings; and
  20. Fulfilling the obligations of medical staff pursuant to the medical staff bylaws of the hospital.
- H. For purposes of responding to a request for qualified staff, Contractor shall provide DSH with live inter-personal telephone service twenty-four (24) hours per day, seven (7) days a week. Telephone answering devices (i.e., message machines) may not be used in place of individuals answering the phone during these hours. DSH shall have the right to terminate this Emergency Agreement if Contractor is not able to provide live inter-personal telephone service during these hours.
- I. Contractor shall submit CV(s) for requested staff within five (5) business days of the DSH request. If Contractor cannot provide available staffing within the five (5) business days, Contractor shall provide written notification to the DSH Contract Manager of the DSH location with a plan of action in how to meet DSH's needs and a timeframe in providing the requesting staffing.
- J. Contractor shall provide referrals for on-call / standby services with qualified staff during off-duty hours which include receiving and responding to communications from DSH which may require on ground services on an "as-needed" basis, as determined by the Medical Director, Chief Psychiatrist or Designee.
- K. Qualified staff scheduled for on-call /standby services shall be available twenty-four (24) hours a day. DSH shall supply a pager or cell phone to the qualified staff to be used to provide these services.
- L. Qualified staff scheduled for on-call / standby services shall respond by telephone within one (1) hour of contact during the week he or she is scheduled to provide on-call / standby services.
- M. Contractor acknowledges and agrees to provide a sufficient number of qualified staff to DSH upon request. Contractor shall be responsible for hiring and retaining a sufficient number of qualified staff to fulfill the requirements of the Emergency Agreement and shall incur expenses at its own risk and invest sufficient amount of time and capitol to fulfill the obligations of this Emergency Agreement.
- N. Contractor agrees that Contractor's Employees, where applicable, must apply for and obtain credentialing prior to performing services at DSH, if required. Contractor further agrees that DSH reserves the right, at their sole discretion, to decide which Contractor's Employees to allow to perform services at a DSH facility. DSH reserves the right, at its sole discretion, to require that Contractor suspend the services of, or altogether replace an employee should DSH determine that the employee has failed to adhere to a DSH policy or procedure or if the performance of that employee does not conform to DSH Standards of Care.
- O. If any of Contractor's Employees are unable to perform due to illness (including quarantine due to Covid-19), resignation, or factors beyond the Contractor's or their

Contractor's Employees control, Contractor shall, when possible, provide a twenty-four (24) hour notification, or such other notification as is reasonable, to DSH in writing and with a phone call to the DSH Contract Manager.

- P. Contractor shall provide current or renewed license(s) and/or certification(s) relevant to the performance of Contractor's Employees to DSH no later than thirty (30) days prior to the expiration date of the license or certification. During the course of this Emergency Agreement, if any of the required licenses and certifications are found to be inactive, revoked, suspended, or not in compliance, Contractor shall immediately notify DSH and DSH reserves the right, in its sole discretion, to immediately terminate the services of that employee. Contractor shall provide DSH with a notice of any disciplinary proceedings, lawsuits or administrative actions pertaining to clinical matters or moral turpitude of Contractor or Contractor's Employees.
- Q. Contractor shall provide monthly communication either via e-mail, phone call, or in person with the DSH Contract Manager as to the status of their recruitment efforts. Contractor shall further communicate monthly on any issues with recruitment or retention of Contractor's Employees with the DSH Contract Manager.
- R. Contractor shall provide on-demand reports regarding various factors associated with the use of this Emergency Agreement. Factors shall include, but are not limited to, staff usage, timekeeping, labor costs, and historical/trending reports.
- S. Contractor agrees that, unless otherwise noted herein, all expenses associated with travel to and from any residence to the DSH location, lodging, and all non-DSH related training expenses shall be borne by Contractor and shall not be reimbursed by DSH. Any and all services performed outside the scope of this Emergency Agreement shall be at the sole risk and expense of Contractor.
- T. If at any time DSH determines that Contractor does not provide sufficient staffing for temporary/relief services, as outlined herein, or to provide appropriate covered services to patients, DSH shall require Contractor to submit a Corrective Action Plan (CAP) no later than seven (7) calendar days after notification of the issues. At a minimum, the CAP should include a detailed description of the approach the Contractor shall use to remedy the coverage gaps, and a timeframe outlining an expeditious resolution to the coverage shortfalls.
- U. If a Contractor's Employee is terminated or otherwise leaves, Contractor shall ensure that continuity of care is maintained by providing a replacement temporary/relief staff person. If the transition creates a gap in service, Contractor shall notify DSH within twenty-four (24) hours by email or telephone call to the DSH designated contract representative team.
- V. Contractor shall ensure that Contractor's Employees attend any orientation or trainings as may be required by the DSH prior to performing services or as may be required to ensure consistent provision of services to DSH patients. **Contractor's Employees shall be paid for the time spent in the DSH trainings.**
- W. Contractor shall actively discourage Contractor's Employees from discussing compensation packages and/or incentives with California State Staff performing services for DSH.
- X. Contractor shall ensure that Contractor's Employees shall be fluent in English. For the

purposes of this Emergency Agreement, fluent shall be defined as, “able to understand, speak and write in English in a medical and non-medical environment, with full comprehension.”

- Y. If services are provided on DSH grounds, Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement must present a valid picture identification (e.g., driver license or identification card issued by a state Department of Motor Vehicle, military card, etc.; company badges are not valid) in order to be admitted into secured areas. Contractor Employees must be in possession of a valid picture identification card at all times while in any DSH secured area.
- Z. If services are provided on DSH grounds, Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement shall not take pictures or video with a camera or phone anywhere on DSH grounds without the written consent of the Executive Director or designee. If any Contractor or personnel is caught taking photos or video without prior authorization, their phone or camera shall be subject to search and further action shall be taken by DSH Hospital police.
- AA. If services are provided on DSH grounds, Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement shall not engage in conversation with DSH patients unless providing direct services to DSH patients conforming to the terms and conditions of the contract.
- BB. If services are provided on DSH grounds, then Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement shall adhere to the dress code of the location where work is being performed. These dress codes may include limitations on the length, color, and material of clothing, or anything else required by that location. Contractor and subcontractors shall obtain a current copy of each location's dress code prior to the performance of any work. Contractor and subcontractors may be refused entry into DSH grounds if their clothing is found to violate the established dress codes. DSH retains the right to change its dress codes at any time.
- CC. If services are provided on DSH grounds, Contractor understands and agrees that DSH reserves the right to limit or restrict the equipment, including but not limited to tools and communication devices which the Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement may bring on grounds. Upon notice by DSH, Contractor shall comply with all such limitations and restrictions.
- DD. If services are provided on DSH grounds, Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement shall not use any tobacco products, (including smokeless tobacco) on DSH grounds (Welfare and Institutions Code section 4138).
- EE. If services are provided on DSH grounds, then Contractor's Employees shall participate in any of DSH safety measures or programs as may be required by DSH. This responsibility includes attending any and all related training or orientation to such measures or programs as may be required and scheduled by DSH.
- FF. Contractor's Employees may be issued a Personal Duress Alarm System (PDAS) device. At the time of issuance, instructions on how to operate/maintain each device shall be provided to Contractor's Employees. In the event of negligent loss/damage of the issued equipment, Contractor's Employees agree to pay for replacement cost.

- GG. Upon the expiration or termination of this Agreement, Contractor shall ensure that each person performing services under this Agreement return all of their PDAS tags and chargers to the appropriate DSH Police Department. If a PDAS tag and charger is not returned to DSH, Contractor will be responsible for the current replacement cost of the PDAS tag (at the rates of \$97.00 per tag, and \$15.00 per charger). Contractor will be billed accordingly for any PDAS tags and chargers that are not returned. Failure to reimburse cost by Contractor will result in DSH withholding the cost of unreturned PDAS tags and/or chargers against any outstanding invoices. If all invoices have been paid, DSH will issue an invoice to Contractor for payment. DSH Contract Manager shall ensure all PDAS tags and chargers are returned to the appropriate DSH Police Department prior to signing off final invoice for payment.
- HH. Contractor understands that Contractor's Employees providing services through a sally port or into a secured area of a DSH facility shall submit to a fingerprint and background check, as well as a mandatory drug screening.
- II. Contractor and its subcontractors shall procure and keep in full force and effect during the term of this Emergency Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Emergency Agreement and shall give all notices necessary and incident to the lawful prosecution of the work. Contractor shall provide proof of any such license(s) permits(s), and certificate(s) upon request by DSH. Contractor agrees that failure by itself or its subcontractors to provide evidence of licensing, permits, or certifications shall constitute a material breach for which the DSH may terminate this Emergency Agreement with cause.
- JJ. Contractor shall provide services as outlined in this Emergency Agreement. Contractor shall be responsible to fulfill the requirements of the Emergency Agreement and shall incur expenses at its own risk and invest sufficient amount of time and capital to fulfill the obligations as contained herein.
- KK. Contractor and its subcontractors shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and to comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Emergency Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the State in writing.
- LL. DSH may terminate the Agreement pursuant to section 7 of Exhibit C if the Contractor or its subcontractors fails to comply with a federal, state or local law and the noncompliance, based on the facts and circumstances, and would constitute a material breach of this Emergency Agreement under California law.
- MM. Contractor and Contractor's employees MUST be able to pass a background check with the State of California to be eligible for a contractor identification badge (ID). The ID badge will allow the Contractor and Contractor's employees to act as an independent service provider. Contractor and its employees shall submit to the background check within ten (10) business days upon execution of the agreement and provide proof of submission. Failure to do so shall result in termination of the agreement.
- NN. Background checks shall be completed at the Contractor's expense. The Contractor

and its employees shall submit to a LIVE SCAN background check at the Contractor's choice of Law Enforcement Agency. It shall be the responsibility of the Contractor and Contractor's employee to obtain an ORI Number, which will direct the return results to the hospital location where services will be performed. Contractor shall obtain a Request for Live Scan Service Form from the General Services Department at each facility, which will include the Hospital's ORI Number, for the Law Enforcement agency conducting the LIVE SCAN process.

- OO. Contractor shall adhere to DSH security clearance/fingerprinting/tuberculin skin testing protocols. Please refer to Exhibit D, Special Terms and Conditions, section 25.

## **8. DSH RESPONSIBILITIES:**

- A. DSH shall issue a task order to the Contractor as temporary staffing services are needed. (See sample task order Exhibit A, Attachment 1.). Once the task order has been signed by the Contractor and DSH, the Contractor shall provide the requested temporary staffing services.

### **B. Rights of DSH to Perform Quality Assurance and Financial Audits/Reviews**

1. DSH may routinely evaluate the work performance of the Contractor, Contractor's personnel, subcontractors, or other parties associated with the Contractor to determine if DSH standards and departmental policies and procedures are being maintained. If it is found that any party fails to perform or is physically or mentally incapable of providing services as required by the Emergency Agreement, then that party shall not perform services for DSH.
2. DSH may monitor and evaluate services provided in fulfillment of the requirements of this Emergency Agreement, as detailed in Exhibit A. Such monitoring and evaluation may occur on a regular cycle or as deemed necessary by the DSH Contract Manager. DSH retains sole and absolute discretion in determining any such evaluation schedule.
3. Inspections may be conducted by DSH staff at various times during the Emergency Agreement term to check on the quality of work.
4. DSH may audit and examine Contractor's records and accounts which pertain, directly or indirectly, to services performed under this Emergency Agreement. DSH may hire third parties to perform the audit and examination, including but not limited to, accountants, consultants, or service providers in the applicable field. Contractor shall cooperate fully with the audits and examinations.
5. If as a result of an audit and examination, DSH is informed of underpayments or overpayments, DSH shall notify Contractor of the need for payment or reimbursement.
6. Upon receipt of a final audit report, Contractor has 30 days to reimburse any overpayment or to dispute or challenge the report. Contractor and DSH shall confer and negotiate in good faith with respect to any disputed portion of the final audit report to reach agreement with respect to adjustments, payments, and reimbursements.
7. DSH shall submit its findings to Contractor and establish a deadline for correcting any deficiencies in fulfilling the obligations set forth in this section. Failure by the Contractor to timely correct deficiencies shall be reason for termination of services under this Emergency Agreement.

8. This Emergency Agreement does not prohibit any employee of Contractor from seeking other employment, including State employment, on their own accord during the term of this Emergency Agreement or after it expires.

**9. PERFORMANCE MEASURES:**

A. Complete and Timely Provision of Services

1. Expectations: Contractor is expected to provide all services, including any and all required reports, in a timely manner – in accordance with this Scope of Work.
2. Penalties: Should Contractor not provide all services on a regular basis, including any and all required reports in a timely manner, DSH may choose to terminate this Emergency Agreement. Additionally, DSH may find the Contractor to be not responsible in provision of services and evaluate this in future contracting opportunities.

**10. AMENDMENTS:**

- A. The Parties reserve the right to amend the anticipated staffing service needs of this Emergency Agreement and the term during the Covid-19 state of emergency and to add additional funding if needed, at the same rates as set forth in this Emergency Agreement, Exhibit B, Section 5. This right to amend is in addition to the right to amend for other reasons contained in this Emergency Agreement or noted in the solicitation that resulted in this Emergency Agreement, if applicable. Any amendment shall be in writing and signed by both parties and be approved by the Department of General Services if such approval is required.

**EXHIBIT A**

**Attachment 1**

**Temporary Healthcare Staffing –Task Order**

<b>Date :</b>	<b>Hospital :</b>
<b>Standard Agreement# :</b>	<b>Classification :</b>
<b>Contractor :</b>	

1. Service Description :
  
2. Scope of Work :
  
3. Start Date : \_\_\_\_\_
  
4. Total Hours Worked : \_\_\_\_\_
  
5. Date of Completion : \_\_\_\_\_
  
6. Total Amount : \$ \_\_\_\_\_

**Authorized Signatures :**

The Contractor and State agree these services will be performed in accordance with the terms and conditions of Standard Agreement # 19-09005-000.

**Department of State Hospitals**

**Contractor**

\_\_\_\_\_  
Name and Title :

\_\_\_\_\_  
Name and Title:

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

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

**EXHIBIT B**  
**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. INVOICING AND PAYMENT**

- A. Invoices shall be submitted not more frequently than monthly in arrears.
- B. For services satisfactorily rendered, and upon receipt and approval of invoices submitted as described herein, the DSH agrees to compensate the Contractor in accordance with the rates specified in Section 5, Budget Detail.
- C. The DSH is not responsible for services performed by the Contractor outside of this Emergency Agreement, nor for services performed other than as outlined in Exhibit A, Scope of Work.
- D. The DSH makes no guarantee, either written or implied, as to the actual amount of funds that shall be expended under this Agreement.

**2. INSTRUCTIONS TO THE CONTRACTOR:**

- A. To expedite the processing of invoices submitted to the DSH for payment, all invoice(s) shall be submitted to the DSH for review and approval at either:

Department of State Hospitals - Atascadero  
Attention: Accounting Office  
P.O. Box 7002 Atascadero,  
CA 93423-7002  
email invoices to:  
[ASHAccounting@dsh.ca.gov](mailto:ASHAccounting@dsh.ca.gov)

Department of State Hospitals - Coalinga  
Attention: Accounting Office  
P.O. Box 5001  
Coalinga, CA 93210  
email invoices to  
[CSHAccountsPayable@dsh.ca.gov](mailto:CSHAccountsPayable@dsh.ca.gov)

Department of State Hospitals – Metropolitan  
Attention: Accounting Office  
11401 S. Bloomfield Avenue  
Norwalk, CA 90650  
email invoices to  
[DSHMSHAccounti.ca.gov](mailto:DSHMSHAccounti.ca.gov)

Department of State Hospitals – Napa  
Attention: Accounts Payable  
2100 Napa-Vallejo Highway  
Napa, CA 94558-6293  
email invoices to  
[NSH.AcctPayable@dsh.ca.gov](mailto:NSH.AcctPayable@dsh.ca.gov)



Department of State Hospitals –Patton  
Attention: Accounting Office  
3102 E. Highland Avenue  
Patton, CA 92369  
email invoices to  
[PSHAccounting@dsh.ca.gov](mailto:PSHAccounting@dsh.ca.gov)

- B. Contractor shall submit one original of each invoice, unless emailed.
- C. Contractor shall type, not handwrite, each invoice on company letterhead.
- D. Contractor shall clearly note Contractor's name and address on each invoice. The name on the invoice must match the Payee Data Record (Std. 204) and the name listed on this Emergency Agreement.
- E. Contractor shall list and itemize in accordance with the Budget Detail, all services or deliverables provided on each invoice.
- F. Contractor shall include the following on each submitted invoice:
  - 1. Date(s) during which the services or deliverables were provided and the date in which the invoice was generated.
  - 2. Agreement number, which can be found on the Standard Agreement Form (Std. 213).
  - 3. Small Business certification number, if applicable
  - 4. Professional license number, if applicable
  - 5. Invoice total
  - 6. Contractor's name as it appears on the Std. 213. If Contractor has both a legal and a fictitious name listed on the Std. 213, Contractor may, at its discretion, invoice using the full name as indicated on the Std. 213, or either of the two names listed.
  - 7. Other requirements as desired
  - 8. Overtime hours worked, accompanied by written DSH Contract Manager approval;
  - 9. Invoice total.

### **3. BUDGET CONTINGENCY CLAUSE:**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall no longer be in full force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any Fiscal Year (FY) is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State or offer an Agreement amendment to Contractor to reflect the reduced amount.
- C. If this Agreement overlaps Federal and State FY's, should funds not be appropriated by Congress or approved by the Legislature for the FY in which the Agreement was entered into, and/or any subsequent years covered under this Agreement, the State may exercise its option to cancel this Agreement.

D. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by Congress or the Legislature which may affect the provisions or terms of funding of this Agreement in any manner.

**4. PROMPT PAYMENT CLAUSE:**

A. Payment will be made in accordance with, and within the time specified in, Government Code section 927, et seq.

**5. BUDGET DETAIL:**

A. Contractor shall be compensated as follows:

Classification	Hourly Rate
Clinical Laboratory Assistant	\$52.00
Clinical Laboratory Technologist	\$79.30
Clinical Social Worker	\$98.62
Nurse Practitioners	\$134.86
Pharmacist I	\$132.28
Pharmacist II	\$144.30
Physical Therapist	\$84.50
Physical Therapist Assistant	\$52.00
Psychiatric Technician	\$78.00
Psychologist	\$128.31
Radiologic Technologist	\$69.55
Registered Nurse	\$126.26
Rehabilitation Therapist	\$91.11
Registered Dietitian	\$97.00
Assistant Director of Dietetics	\$99.88
Audiologist	\$86.89
Clinical Dietitian	\$94.11
Dental Assistant	\$79.67
Director of Dietetics	\$102.77
Occupational Therapist	\$108.45
Occupational Therapist Assistant	\$76.79
Phlebotomist	\$65.24
Physical Therapist II	\$115.26
Substance Recovery Specialty Counselor	\$86.89

Speech Pathologist	\$101.33
School Psychologist	\$127.23
Podiatrist	\$214.47
Licensed Vocational Nurse	\$75.77
Dentist	\$141.47
Pharmacy Technician	\$65.24
Physician /Surgeon	\$245.70
Psychiatry	\$375.38

1. Should DSH, in its sole and absolute discretion, permit Contractor’s Employees to provide on-call services, DSH shall reimburse Contractor at the hourly rate for the classification of the person providing such services for each hour of on-call work.
  2. Contractor shall not be paid for expenses associated with Contractor’s Employee’s time and travel to and from a DSH facility.
  3. Additional services not set forth in this Emergency Agreement and not previously approved by the DSH in writing shall be deemed to be outside the scope of work and not reimbursable by the DSH.
- B. The DSH does not expressly or by implication agree that the DSH shall require Contractor to fill all the positions listed herein. The estimates in Exhibit B are a good faith estimate and are not a guarantee of business and is subject to change depending on fluctuation in staffing needs and/or patient population needs during the COVID-19 emergency. The service indicated in Exhibit B shall be used solely for the purposes of encumbering funds. The DSH makes no guarantee, expressed or implied for actual amount of work to be performed. However, the rates contained in Exhibit B shall be binding for the term of this Emergency Agreement.
- Should the DSH determine, in its sole discretion, that the estimated number of staff or hours is insufficient to meets the demands of patient care or otherwise meet the needs of the DSH, the Parties may amend this Emergency Agreement by adding additional staff and funding at the same rates as set forth in this Exhibit B, Section 5. This right to amend is in addition to the right to amend for other reasons contained in this Emergency Agreement. Any amendment shall be in writing and signed by both Parties and be approved by the Department of General Services if such approval is required.
- C. At the sole discretion of the DSH and for the purposes of accounting, the DSH may adjust the total proposed expenditure for each fiscal year as needed. In no event shall this change the contract price for the services rendered.
  - D. Contractor must submit all invoices within a reasonable time but, no later than twelve (12) months from the date that services were provided. If Contractor fails to provide invoices within twelve (12) months of the date services are rendered, the DSH may elect to reject the invoices for payment as untimely and Contractor shall be deemed to have waived any right to payment of the late invoices.
  - E. If Contractor’s Employees are subpoenaed to testify in a court matter or perform other activities required and/or approved by DSH related to services provided under this

Emergency Agreement, DSH shall reimburse the Contractor for travel expenses as set forth below. Contractor shall also be reimbursed at the full hourly rate for time spent in court. Contractor shall be compensated at a rate not to exceed 50% of the hourly rate in this Exhibit B, Section 5, for travel time for approved travel.

- F. Travel reimbursement rates shall be calculated in accordance with the Department of Human Resources (CalHR) Rules (Cal. Code of Regs., title 2, §§ 599.615 - 599.638.1) for non-represented employees, and are subject to the following provisions:
1. Travel must be pre-approved by the DSH Contract Manager.
  2. Travel shall be at the least expensive method available
  3. Contractor shall be reimbursed for actual expenses, up to the maximum prescribed in the aforementioned CalHR rules. When determining method of travel, the Contractor shall select the option that is the lowest cost to the state.
  4. When seeking reimbursement for travel, the Contractor must submit an originally signed Travel Expense Claim (TEC) form (STD. 262) with his or her invoice, and with original receipts, for each instance of expenses for lodging, rental car, fuel for rental car, and parking. A copy of the travel itinerary is required for all air travel, and a copy of MapQuest or equivalent is required for mileage claims. All TEC's must be approved by the DSH Contract Manager in writing.
  5. The time an individual leaves his or her office or residence and returns to his/her office or residence shall be used in calculating per diem allowances. Expense claim forms must specify these times in order to be processed for payment.
- G. Contractor must retain copies of all expense claim forms and receipts for at least three years from the final payment of this contract in case of an audit. For specific questions regarding which travel expenses are reimbursable, contact the DSH Contract Manager. For an overview of CalHR's travel reimbursement program visit <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

Revision 4-3-19

**EXHIBIT D**  
**SPECIAL TERMS AND CONDITIONS**

**1. SUBCONTRACTS:**

- A. Except for the subcontract between Contractor and MHM Services of California, LLC, (MHM subcontract) Contractor shall submit any subcontracts in connection with this Emergency Agreement to DSH for its prior written approval. Except for the MHM subcontract, no work shall be subcontracted without the prior written approval of DSH. Upon the termination of any subcontract, DSH shall be notified immediately. Except for the MHM subcontract, any other subcontract shall include all the terms and conditions of this Emergency Agreement and its attachments.
- B. Nothing contained in this Emergency Agreement shall create any contractual relationship between DSH and any subcontractors, and Contractor is solely responsible for payment of any and all fees, expenses, salaries and benefits of subcontractor. No subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor is fully responsible to DSH for the acts and omissions of its subcontractors and of persons either directly or indirectly employed or acting as an agent by any of them. Contractor agrees to indemnify and hold DSH harmless for any costs, losses or claims, including reasonable attorney fees, resulting from its subcontractors.

**2. PUBLICATIONS AND REPORTS:**

- A. DSH reserves the right to use and reproduce all publications, reports, and data produced or delivered pursuant to this Agreement. DSH further reserves the right to authorize others to use or reproduce such materials, provided the author of the report is acknowledged in any such use or reproduction.
- B. If the publication and/or report are prepared by non-employees of DSH, and the total cost for such preparation exceeds \$5,000, the publication and/or report shall contain the numbers and dollar amounts of all agreements and subcontracts relating to the preparation of the publication and report in a separate section of the report (Government Code section 7550).

**3. PROGRESS REPORTS:**

- A. If progress reports are required by the Emergency Agreement, Contractor shall provide a progress report in writing, or orally if approved by DSH Contract Manager, at least once a month to DSH Contract Manager. This progress report shall include, but not be limited to; a statement that Contractor is or is not on schedule, any pertinent reports, and any interim findings if applicable. Contractor shall cooperate with and shall be available to meet with DSH to discuss any difficulties, or special problems, so that solutions or remedies can be developed as soon as possible.

**4. PRESENTATION:**

- A. Upon request, Contractor shall meet with DSH to present any findings, conclusions, and recommendations required by the Emergency Agreement for approval. If set forth in the Agreement, Contractor shall submit a comprehensive final report for approval. Both the final meeting and the final report shall be completed on or before the date indicated in this Emergency Agreement.

**5. DEPARTMENT OF STATE HOSPITALS STAFF:**

- A. DSH's staff shall be permitted to work side-by-side with Contractor's staff to the extent and under conditions as directed by DSH Contract Manager. In this connection, DSH's staff shall be given access to all data, working papers, etc., which Contractor seeks to utilize.

**6. CONFIDENTIALITY OF DATA AND DOCUMENTS:**

- A. Contractor shall not disclose data or documents or disseminate the contents of the final or any preliminary report without written permission of DSH Contract Manager. However, all public entities shall comply with California Public Records Act (Government Code sections 6250 et seq.).
- B. Permission to disclose information or documents on one occasion shall not authorize Contractor to further disclose such information or documents on any other occasion except as otherwise provided in the Emergency Agreement or required by law.
- C. Contractor shall not comment publicly to the press, or any other media, regarding the data or documents generated, collected, or produced in connection with this Emergency Agreement, or DSH's actions on the same, except to DSH's staff, Contractor's own personnel involved in the performance of this Emergency Agreement, or as required by law.
- D. If requested by DSH, Contractor shall require each of its employees or officers who shall be involved in the performance of this Emergency Agreement to agree to the above terms in a form to be approved by DSH and shall supply DSH with evidence thereof.
- E. Each subcontract shall contain the foregoing provisions related to the confidentiality of data and nondisclosure.
- F. After any data or documents submitted has become a part of the public records of DSH, Contractor may at its own expense and upon written approval by DSH Contract Manager, publish or utilize the same data or documents but shall include the following Notice:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the Department of State Hospitals (Department) but does not necessarily represent the views of the Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document. Nor does any party represent that use of the data contained herein, would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

**7. PROVISIONS RELATING TO DATA:**

- A. "Data" as used in this Emergency Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may, for example,

document research, experimental, developmental or engineering work; or be usable or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Emergency Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections or extrapolations of data or information, etc. It may be in machine form, as punched cards, magnetic tape, computer printouts, or may be retained in computer memory.

- B. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Emergency Agreement. Any electronic data processing program, model or software system developed or substantially modified by Contractor in the performance of this Emergency Agreement at the expense of DSH, together with complete documentation thereof, shall be treated in the same manner as generated data.
- C. "Deliverable data" is that data which under terms of this Emergency Agreement is required to be delivered to DSH. Such data shall be property of the State of California and DSH.
- D. Prior to the expiration of any legally required retention period and before destroying any data, Contractor shall notify DSH of any such contemplated action; and DSH may within 30 days of said notification determine whether or not this data shall be further preserved. DSH shall pay the expense of further preserving this data. DSH shall have unrestricted reasonable access to the data that is preserved in accordance with this Emergency Agreement.
- E. Contractor shall use best efforts to furnish competent witnesses to testify in any court of law regarding data used in or generated under the performance of this Emergency Agreement.
- F. All financial, statistical, personal, technical and other data and information relating to DSH's operation, which are designated confidential by the State or DSH and made available to carry out the Emergency Agreement, or which become available to Contractor in order to carry out this Emergency Agreement, shall be protected by Contractor from unauthorized use and disclosure.
- G. If DSH determines that the data and information are inadequately protected by Contractor or its subcontractors, DSH shall provide notice of its determination and Contractor and/or its subcontractors shall improve the protections to DSH's satisfaction which shall be evidenced by written approval of the protections implemented.

## **8. APPROVAL OF PRODUCT:**

- A. Each service to be approved under this Emergency Agreement shall be approved by the DSH Contract Manager. DSH's determination as to satisfactory work shall be final, absent fraud or mistake.

## **9. SUBSTITUTIONS:**

- A. Contractor's key personnel as indicated in its proposal may not be substituted without the DSH Contract Manager's prior written approval.

## **10. NOTICE:**

- A. Notice to either party shall be given by first class mail, by Federal Express, United Parcel Service or similar carrier, properly addressed, postage fully prepaid, to the address beneath the name of each respective party. Alternatively, notice may be given by personal delivery by any means whatsoever to the party and such notice shall be deemed effective when delivered.

**11. WAIVER:**

- A. All remedies afforded in this Emergency Agreement are cumulative; that is, in addition to every other remedy provided therein or by law. The failure of DSH to enforce any provision of this Emergency Agreement, shall not waive its right to enforce the provision or any other provision of the Emergency Agreement.

**12. GRATUITIES AND CONTINGENCY FEES:**

- A. Contractor shall not provide gratuities to any officer or employee of DSH or the State to secure an agreement or favorable treatment with respect to an agreement, the occurrence of which shall constitute a material breach of this Emergency Agreement. DSH, by written notice to Contractor, may terminate this Emergency Agreement with cause if it is found that gratuities were offered or given by Contractor or any agent or representative of Contractor to any officer or employee of the State or DSH with a view toward securing an agreement or securing favorable treatment with respect to the awarding, amending, or performance of such agreement.
- B. In the event this Emergency Agreement is terminated as provided in the paragraph above, DSH shall be entitled (a) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the Emergency Agreement by Contractor, and (b) as a predetermined amount of liquidated damages, Contractor shall pay an amount which shall not be less than three times the cost incurred by Contractor in providing any such gratuities to any such officer or employee.
- C. The rights and remedies of DSH provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Emergency Agreement.
- D. Contractor warrants by execution of this Emergency Agreement that no person or selling agency has been employed or retained to solicit or secure this Emergency Agreement for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Contractor, for the purpose of securing business. For breach or violation of this warranty, DSH shall, among other rights, have the right to rescind this Emergency Agreement without liability, paying only for the values of the work actually returned, or in its discretion to deduct from the Emergency Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**13. INTEGRATION CLAUSE:**

- A. The Parties agree that this Emergency Agreement, including only the State standard form 213 and all exhibits, constitute the entire agreement of the Parties and no other understanding or communication, whether written or oral, shall be construed to be a part of this Emergency Agreement.



**14. CAPTIONS:**

- A. The clause headings appearing in this Emergency Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

**15. PUBLIC HEARINGS:**

- A. If public hearings on the subject matter dealt with in this Emergency Agreement are held within one year from the Emergency Agreement expiration date, Contractor shall make available to testify the personnel assigned to this Emergency Agreement at the hourly rates specified in Contractor's proposed budget. DSH shall reimburse Contractor for travel of said personnel at the Agreement, or if none, at State rates for such testimony as may be requested by DSH.

**16. FORCE MAJEURE:**

- A. Neither DSH nor Contractor shall be deemed to be in default in the performance of the terms of this Emergency Agreement if either party is prevented from performing the terms of this Emergency Agreement by causes beyond its control, which shall include without being limited to: acts of God; interference, rulings or decision by municipal, Federal, State or other governmental agencies, boards or commissions;  
  
any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, earthquakes or other similar environmental causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other party written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable.

**17. LITIGATION:**

- A. DSH, promptly after receiving notice thereof, shall notify Contractor in writing of the commencement of any claim, suit, or action against DSH or its officers or employees for which Contractor must provide indemnification under this Emergency Agreement. The failure of DSH to give such notice, information, authorization or assistance shall not relieve Contractor of its indemnification obligations. Contractor shall immediately notify DSH of any claim or action against it which affects, or may affect, this Emergency Agreement, the terms or conditions hereunder, DSH, and shall take such action with respect to said claim or action which is consistent with the terms of this Emergency Agreement and the interest of DSH.
- B. Contractor shall be in default of this Emergency Agreement (i) upon the institution by or against Contractor of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Contractor's debts, (ii) upon Contractor making an assignment for the benefit of creditors, (iii) upon either party's dissolution or ceasing to do business or (iv) when the facts and circumstances indicate that Contractor is insolvent. For purposes of this Emergency Agreement, Contractor shall be deemed insolvent if: (i) Contractor has failed to pay salaries, overtime or benefits required by law of agreement, (ii) Contractor has failed to pay a subcontractor amounts owed pursuant to its agreements with a subcontractor, or (iii) Contractor has failed to pay a vendor amounts Contractor owes the vendor for more than 90 days the past due date for payment.

**18. DISPUTES:**

- A. Contractor shall first discuss and attempt to resolve any dispute arising under or relating to the performance of this Emergency Agreement.

**19. EVALUATION OF CONTRACTOR'S PERFORMANCE:**

- A. DSH shall evaluate Contractor's performance under this Emergency Agreement using standardized evaluation forms which shall be made available to every state agency pursuant to Public Contracts Code section 10367.

**20. AUDITS, INSPECTION AND ENFORCEMENT:**

- A. Contractor agrees to allow DSH to inspect its facilities and systems and make available for review its books and records to enable DSH to monitor compliance with the terms of this Emergency Agreement and audit invoices submitted to DSH.
- B. Contractor shall promptly remedy any violation of any provision of this Emergency Agreement to the satisfaction of DSH.
- C. The fact that DSH inspects, or fails to inspect, or has the right to inspect Contractor's facilities, systems, books and records does not relieve Contractor of its responsibility to independently monitor its compliance with this Emergency Agreement.
- D. DSH's failure to detect or DSH's detection of any unsatisfactory practices, but failure to notify Contractor or require Contractor's remediation of the unsatisfactory practices does not constitute acceptance of such practice or a waiver of DSH's enforcement rights under the Emergency Agreement.

**21. USE OF STATE FUNDS:**

- A. Contractor, including its officers and members, shall not use funds received from DSH pursuant to this Emergency Agreement to support or pay for costs or expenses related to the following:
  - i. Campaigning or other partisan activities to advocate for either the election or defeat of any candidate for elective office, or for or against the passage of any proposition or ballot measure; or,
  - ii. Lobbying for either the passage or defeat of any legislation.
- B. This provision is not intended and shall not be construed to limit any expression of a view, opinion, or position of any member of Contractor as an individual or private citizens, as long as state funds are not used; nor does this provision limit Contractor from merely reporting the results of a poll or survey of its membership.

**22. CANCELLATION PROVISIONS:**

- A. Unless otherwise specified, this Emergency Agreement may be canceled at any time by DSH, in writing, with thirty (30) days advance notice. If canceled, payment shall be made only for the provision of services expressly authorized by this Emergency Agreement until the date of cancellation and only at the rates set forth in Exhibit B,

Budget Detail. In the case of early termination, a final payment shall be made to Contractor upon receipt of an invoice covering all authorized costs, at the rates set forth in Exhibit B, incurred prior to the date of cancellation or termination. DSH shall not be responsible for unamortized costs, overhead or capital costs or any other related costs, including but, not limited to costs incurred in connection with the cancellation of leases or contracts pertaining to facilities, equipment or supplies, labor and employee benefits costs, and expenditures incurred after the date of notice of cancellation.

- B. If DSH determines that Contractor has breached a material term of the Emergency Agreement and has not cured the breach or ended the violation within the time specified by DSH, DSH may terminate the contract by providing notice to Contractor. DSH Information Security Officer shall report as required HIPAA violations to the Secretary of the U.S. Department of Health and Human Services.
- C. Failure to comply with section 1 or 6 of this Exhibit, or a violation of section 12 of this Exhibit, shall be deemed a material breach of this Emergency Agreement.

**23. EMPLOYMENT PROVISIONS:**

- A. Contractor acknowledges and agrees that neither Contractor, their personnel, subcontractors, nor other service providers through this Emergency Agreement are employees of DSH. Contractor and its independent contractors shall be solely responsible for:
  - i. Paying any and all payroll taxes, including, but not limited to Social Security and Medicare taxes,
  - ii. Federal or state income tax withholding,
  - iii. Providing unemployment insurance and workers compensation insurance, and
  - iv. Paying compensation to its employees in accordance with federal and state labor laws, including overtime pay unless otherwise specified in this Agreement, as well as penalties that may be imposed for failure to comply with these laws. Contractor agrees to indemnify and hold harmless DSH for any damages, losses, expenses, including reasonable attorney fees, in connection with its failure to pay salary or overtime, or provide benefits, including, but not limited to health care benefits or retirement benefits, to its employees, or its failure to provide to comply with federal or state labor laws.

**24. LIABILITY FOR LOSS AND DAMAGES:**

- A. Any damages by Contractor, their personnel, subcontractors, and other service providers through this Emergency Agreement to DSH's facility, including equipment, furniture, materials, or other State or DSH property, shall be repaired or replaced by Contractor to the satisfaction of DSH at Contractor's expense. DSH, at its option, may repair any such damage and deduct the cost thereof from any sum due Contractor under this Emergency Agreement.

**25. SECURITY CLEARANCE/FINGERPRINTING/TUBERCULIN SKIN TESTING:**

- A. DSH reserves the right to conduct fingerprinting, drug testing, and/or security clearance through the Department of Justice, Bureau of Criminal Identification and Information

(BCII), prior to award and at any time during the term of the Emergency Agreement, in order to permit Contractor, their personnel, subcontractors, and other service providers through this Emergency Agreement access to State premises. DSH further reserves the right to terminate this Emergency Agreement should a threat to security be determined.

- B. At the sole discretion of DSH, and in accordance with each facility's Infection Control Policy, Contractor, their personnel, subcontractors, and anyone else affiliated with this Emergency Agreement providing services may be required to provide DSH with Tuberculin (TB) test results. These test results shall indicate completion of the two-step TB testing process using the Mantoux method. The first step is a tuberculin skin test (TST) completed within the last 12 months prior to the date the tested person is to provide services to a DSH facility. The second step is a TST which must be completed within the 30 days prior to the date the tested person is to provide services to a DSH facility, unless otherwise specified.
- C. If both of the documented results of the TST provided  $\leq 0$ -9/mm of induration, then the tested person may be cleared to provide services. However, if the documented result of the TST is  $\geq 10$ /mm of induration, then they shall be subject to additional testing and/or clearances before he or she is allowed to work at a DSH facility.
- D. DSH reserves the right, in its sole and absolute discretion, to take measures to minimize the transmission of influenza. Contractor, their personnel, subcontractors, and other service providers through this Emergency Agreement may be required to either a) show written proof that they have received an influenza vaccine, or b) complete an Influenza Declination Form, which shall be provided upon request. In addition, all non-vaccinated providers may be required to wear a mask. In its sole and absolute discretion, DSH may elect to provide free influenza vaccines to Contractor, their personnel, subcontractors, and other service providers through this Emergency Agreement.

## **26. PHYSICIAN OWNERSHIP AND REFERRAL ACT OF 1993:**

- A. For applicable medical services contracts, and in accordance with the Physician Ownership and Referral Act of 1993, Contractor shall not refer any patient to any health care provider or health-related facility if Contractor has a financial interest with that health care provider or health-related facility.
- B. Contractor may make a referral to or request consultation from a sole source health care provider or health-related facility in which financial interest is held if Contractor is located where there is no alternative provider of service within either twenty-five (25) miles or forty (40) minutes travel time, subject to the prior approval of DSH. Contractor shall disclose, in writing, as well as on a continuous basis, to DSH, its financial interest at the time of referral or request for consultation. In no event, shall this prohibit patients from receiving emergency health care services.

## **27. AMENDMENTS:**

- A. The parties reserve the right to amend this Emergency Agreement as mutually agreed upon. This is in addition to the right to amend for other reasons contained in this Agreement or noted in the solicitation that resulted in this Agreement, if applicable. Any amendment shall be in writing and signed by both parties and be approved by the Department of General Services if such approval is required.

**EXHIBIT E**

**CONFIDENTIALITY AND INFORMATION SECURITY PROVISIONS**

**(HIPAA Business Associate Agreement)**

**This Exhibit E is not applicable to this Agreement.**

**EXHIBIT F**  
**INFORMATION PRIVACY AND SECURITY REQUIREMENTS**  
**(Non-HIPAA/HITECH Act Contracts)**

This Information Privacy and Security Requirements (for Non-Health Insurance Portability and Accountability Act/Health Information Technology for Economic and Clinical Health (Non-HIPAA/HITECH) Act Contracts) (hereinafter referred to as “this Exhibit”) sets forth the information privacy and security requirements Contractor is obligated to follow with respect to all personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of the California Department of State Hospitals (hereinafter “DSH”), pursuant to Contractor’s agreement with DSH. (Such personal and confidential information is referred to herein collectively as “DSH PCI”.) DSH and Contractor desire to protect the privacy and provide for the security of DSH PCI pursuant to this Exhibit and in compliance with state and federal laws applicable to the DSH PCI.

- I. Order of Precedence: With respect to information privacy and security requirements for all DSH PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and DSH, including Exhibit A (Scope of Work), all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.
- II. Effect on lower tier transactions: The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, and the information privacy and security requirements Contractor is obligated to follow with respect to DSH PCI disclosed to Contractor, or collected, created, maintained, stored, transmitted or used by Contractor for or on behalf of DSH, pursuant to Contractor’s agreement with DSH. When applicable the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.
- III. Definitions: For purposes of the agreement between Contractor and DSH, including this Exhibit, the following definitions shall apply:
  - A. Breach: “Breach” means:
    1. the unauthorized acquisition, access, use, or disclosure of DSH PCI in a manner which compromises the security, confidentiality or integrity of the information; or
    2. the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).
  - B. Confidential Information: “Confidential information” means information that:
    1. does not meet the definition of “public records” set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq of the California Government Code or any other applicable state or federal laws; or
    2. is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word “confidential” by DSH.
  - C. Disclosure: “Disclosure” means the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.

Exhibit F, Information Privacy and Security Requirements

- D. PCI: “PCI” means “personal information” and “confidential information” collectively (as these terms are defined herein).
- E. Personal Information: “Personal information” means information, in any medium (paper, electronic, oral) that:
1. directly or indirectly collectively identifies or uniquely describes an individual; or
  2. could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
  3. meets the definition of “personal information” set forth in California Civil Code section 1798.3, subdivision (a); or
  4. is one of the data elements set forth in California Civil Code section 1798.29, subdivision (g)(1) or (g)(2); or
  5. meets the definition of “medical information” set forth in either California Civil Code section 1798.29, subdivision (h)(2), or California Civil Code section 56.05, subdivision (j); or
  6. meets the definition of “health insurance information” set forth in California Civil Code section 1798.29, subdivision (h)(3); or
  7. is protected from disclosure under applicable state or federal law.
- F. Security Incident: “Security Incident” means:
1. an attempted breach; or
  2. the attempted or successful unauthorized access or disclosure, modification or destruction of DSH PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and DSH, including this Exhibit; or
  3. the attempted or successful modification or destruction of, or interference with, Contractor’s system operations in an information technology system, that negatively impacts the confidentiality, availability or integrity of DSH PCI; or
  4. any event that is reasonably believed to have compromised the confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.
- G. Use: “Use” means the sharing, employment, application, utilization, examination, or analysis of information.
- IV. Disclosure Restrictions: The Contractor and its employees, agents, and subcontractors shall protect from unauthorized disclosure any DSH PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and DSH (including this Exhibit), any DSH PCI to anyone other than DSH personnel or programs without prior written authorization from the DSH Program DSH Contract Manager, except if disclosure is required by State or Federal law.

## Exhibit F, Information Privacy and Security Requirements

- V. Use Restrictions: The Contractor and its employees, agents, and subcontractors shall not use any DSH PCI for any purpose other than performing the Contractor's obligations under its agreement with DSH.
- VI. Safeguards: The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, security, integrity, and availability of DSH PCI, including electronic or computerized DSH PCI. At each location where DSH PCI exists under Contractor's control, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with DSH, including this Exhibit, and which incorporates the requirements of Section VII, Security, below. Contractor shall provide DSH with Contractor's current and updated policies within five (5) business days of a request by DSH for the policies.
- VII. Security: The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing DSH PCI. These steps shall include, at a minimum, complying with all of the data system security precautions listed in the Contractor Data Security Standards set forth in Attachment 1 to this Exhibit.
- VIII. Security Officer: At each place where DSH PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and to communicate with DSH on matters concerning this Exhibit.
- IX. Training: The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with DSH, including this Exhibit, or otherwise use or disclose DSH PCI.
- A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
- B. The Contractor shall retain each employee's certifications for DSH inspection for a period of three years following contract termination or completion.
- C. Contractor shall provide DSH with its employee's certifications within five (5) business days of a request by DSH for the employee's certifications.
- X. Employee Discipline: Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally or negligently violate any provisions of this Exhibit.
- XI. Breach and Security Incident Responsibilities:
- A. Notification to DSH of Breach or Security Incident: The Contractor shall notify DSH **immediately by telephone call plus email or fax** upon the discovery of a breach (as defined in this Exhibit), **and within twenty-four (24) hours by email or fax** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification shall impede a criminal investigation, in which case the notification required by this section shall be made to DSH immediately after the law enforcement agency determines that such notification shall not compromise the investigation. Notification shall be provided to the DSH Program DSH Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact



## Exhibit F, Information Privacy and Security Requirements

information listed in Section XI(F), below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves DSH PCI in electronic or computerized form, notification to DSH shall be provided by calling the DSH Information Security Office at the telephone numbers listed in Section XI(F), below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor, or, by exercising reasonable diligence would have been known to the Contractor. Contractor shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is an employee or agent of the Contractor.

Contractor shall take:

1. prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
  2. any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29 and 1798.82.
- B. Investigation of Breach and Security Incidents: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the DSH Program DSH Contract Manager, the DSH Privacy Officer, and the DSH Chief Information Security Officer of:
1. what data elements were involved, and the extent of the data disclosure or access involved in the breach, including, specifically, the number of individuals whose personal information was breached; and
  2. a description of the unauthorized persons known or reasonably believed to have improperly used the DSH PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the DSH PCI, or to whom it is known or reasonably believed to have had the DSH PCI improperly disclosed to them; and
  3. a description of where the DSH PCI is believed to have been improperly used or disclosed; and
  4. a description of the probable and proximate causes of the breach or security incident; and
  5. whether Civil Code section 1798.29 and 1798.82 or any other federal or state laws requiring individual notifications of breaches have been triggered.
- C. Written Report: The Contractor shall provide a written report of the investigation to the DSH Program DSH Contract Manager, the DSH Privacy Officer, and the DSH Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a complete, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence or further disclosure of data regarding such breach or security incident.
- D. Notification to Individuals: If notification to individuals whose information was breached is

Exhibit F, Information Privacy and Security Requirements

required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the DSH PCI, Contractor shall, at its sole expense, and at the sole election of DSH, either:

1. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the DSH Privacy Officer of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
  2. cooperate with and assist DSH in its notification (including substitute notification) to the individuals affected by the breach.
- E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29 or 1798.82, and regardless of whether Contractor is considered only a custodian and/or non-owner of the DSH PCI, Contractor shall, at its sole expense, and at the sole election of DSH, either:
1. electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content and timeliness provisions of Section 1798.29, subdivision (e), or 1798.82, subdivision (f). Contractor shall inform the DSH Privacy Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
  2. cooperate with and assist DSH in its submission of a sample copy of the notification to the Attorney General.
- F. DSH Contact Information: To direct communications to the above referenced DSH staff, the Contractor shall initiate contact as indicated herein. DSH reserves the right to make changes to the contact information below by verbal or written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

<b>DSH Program DSH Contract Manager</b>	<b>DSH Privacy Officer</b>	<b>DSH Chief Information Security Officer</b>
See the Scope of Work exhibit for Program DSH Contract Manager	Privacy Officer Office of Legal Services California Dept. State Hospitals 1600 9 <sup>th</sup> Street, Room 433 Sacramento, CA 95814  Email: <a href="mailto:yamin.scardigli@dsh.ca.gov">yamin.scardigli@dsh.ca.gov</a> Telephone: (916) 562-3721	Chief Information Security Officer Information Security Office 1600 9th Street, Suite 250 Sacramento, CA 95814  Email: <a href="mailto:iso@dsh.ca.gov">iso@dsh.ca.gov</a> and <a href="mailto:security@dsh.ca.gov">security@dsh.ca.gov</a> Telephone: (916) 654-4218

- XII. Documentation of Disclosures for Requests for Accounting: Contractor shall document and make available to DSH or (at the direction of DSH) to an Individual such disclosures of DSH PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by Civil Code section 1798.25, or any applicable state or federal law.

- XIII. Requests for DSH PCI by Third Parties: The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DSH Program DSH Contract Manager all requests for disclosure of any DSH PCI requested by third parties to the agreement between Contractor and DSH (except from an Individual for an accounting of disclosures of the individual's personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.
- XIV. Audits, Inspection and Enforcement: DSH may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the DSH Program DSH Contract Manager in writing.
- XV. Return or Destruction of DSH PCI on Expiration or Termination: Upon expiration or termination of the agreement between Contractor and DSH for any reason, Contractor shall securely return or destroy the DSH PCI. If return or destruction is not feasible, Contractor shall provide a written explanation to the DSH Program DSH Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact information listed in Section XI(F), above.
- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, DSH PCI for the time specified as necessary to comply with the law.
- B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor destroys the DSH PCI or returns the DSH PCI to DSH; provided however, that on expiration or termination of the agreement between Contractor and DSH, Contractor shall not further use or disclose the DSH PCI except as required by state or federal law.
- C. Notification of Election to Destroy DSH PCI: If Contractor elects to destroy the DSH PCI, Contractor shall certify in writing within 30 days of the expiration or termination of the agreement to the DSH Program DSH Contract Manager, the DSH Privacy Officer and the DSH Chief Information Security Officer, using the contact information listed in Section XI(F), above, that the DSH PCI has been securely destroyed. The notice shall include the date and type of destruction method used.
- XVI. Amendment: The parties acknowledge that federal and state laws regarding information security and privacy rapidly evolves and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of DSH PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.
- XVII. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself and any subcontractors, workforce employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and DSH, available to DSH at no cost to DSH to testify as witnesses, in the event of litigation or administrative proceedings being commenced against DSH, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, workforce employee or agent is a named adverse party.

- XVIII. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than DSH or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- XIX. Interpretation: The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.
- XX. Survival: If Contractor does not return or destroy the DSH PCI upon the expiration or termination of the Agreement, the respective rights and obligations of Contractor under Sections VI, VII and XI of this Exhibit shall survive the completion or termination of the agreement between Contractor and DSH.

Revision 2-7-19

**EXHIBIT G  
INSURANCE REQUIREMENTS**

**1. APPLICABLE LIABILITY INSURANCE:**

- A. The insurance and/or bonds identified below with a marked box are a required part of this Agreement, and only the marked boxes have any force or effect under this Agreement. Except as set forth below, evidence of liability insurance coverage, in the form of a certificate acceptable to the State of California and DSH, shall be provided prior to the execution of this Agreement and the commencement of services.
- B. DSH reserves the right, at its sole discretion, to cancel a proposed award to Contractor which does not submit all required insurance documents in a timely manner. Should DSH cancel a proposed award for this reason, DSH reserves the right, at its sole discretion, to award the contract to the next lowest, responsive and responsible provider.

**Commercial General Liability:**

Contractor shall maintain general liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought.

Should Contractor use a subcontractor to complete a portion of this Agreement, Contractor shall include the subcontractor as an additional named insured under Contractor's policy or represents and warrants that each subcontractor is insured under their own Commercial General Liability policy at the amounts specified herein. Contractor shall supply evidence of the subcontractor's insurance to DSH upon request.

**Requirement to Insure the State:** Contractor is required to name the "State of California, its officers, employees, and agents" as additional insured parties, insofar as operations under the Agreement are concerned. To satisfy this requirement, Contractor shall ensure that the following requirement(s) are met:

- **Policy Endorsement:** Contractor, when providing a signed contract to DSH and unless otherwise directed by DSH, shall provide proof that Contractor has insured the State of California, its officers, employees, and agents. This proof shall come in the form of an endorsement to Contractor's insurance policy (Form CG 20 10 11 85 or as broad as), or in the form of a copy of Contractor's current insurance policy that shows that the policy insures all parties required to be insured by this Agreement.

**Pollution/Environmental Impairment Liability:**

Contractor shall maintain Pollution Liability covering Contractor's liability for bodily injury, property damage and environmental damage resulting from pollution or hazardous materials and related cleanup costs incurred, arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both works performed on-site, as well as during the transportation or

disposal of hazardous materials. Contractor shall maintain limits of not less than \$1,000,000 per claim and \$2,000,000 aggregate.

**Requirement to Insure the State:** Contractor is required to name the “State of California, its officers, employees, and agents” as additional insured parties, insofar as operations under the Agreement are concerned. To satisfy this requirement, Contractor shall ensure that the following requirement(s) are met:

- **Policy Endorsement:** Contractor, when providing a signed contract to DSH and unless otherwise specified, shall provide proof that Contractor has insured the State of California, its officers, employees, and agents. This proof shall come in the form of an endorsement to Contractor’s insurance policy, or in the form of a copy of Contractor’s current insurance policy that shows that the policy insures all parties required to be insured by this Agreement.



**Motor Vehicle Liability:**

Contractor shall maintain motor vehicle liability insurance with limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of an accident involving a motor vehicle in use by Contractor during the provision of services under this Agreement, including, but not limited to, Contractor owned, hired, and non-owned motor vehicles.

**Requirement to Insure the State:** Contractor is required to name the “State of California, its officers, employees, and agents” as additional insured parties, insofar as operations under the Agreement are concerned. To satisfy this requirement, Contractor shall ensure that the following requirement(s) are met:

- **Policy Endorsement:** Contractor, when providing a signed contract to DSH and unless otherwise specified, shall provide proof that Contractor has insured the State of California, its officers, employees, and agents. This proof shall come in the form of an endorsement to Contractor’s insurance policy, or in the form of a copy of Contractor’s current insurance policy that shows that the policy insures all parties required to be insured by this Agreement.



**Professional Liability:**

Contractor shall maintain Professional Liability insurance covering any damages caused by an error, omission or any negligent acts. Contractor shall maintain limits of not less than \$1,000,000 per claim and \$2,000,000 aggregate.

In the event a medical professional performing services under this Agreement is a subcontractor or is performing services through a registry, the medical professional actually performing the services shall be the insured and shall comply with the Professional Liability/Medical Malpractice insurance requirements of this Agreement. The prime contractor shall be responsible to enforce this provision and employ only those medical professionals meeting this requirement. Evidence of compliant insurance shall be provided to DSH prior to the commencement of services.

**Performance Bond:**  
Contractor shall obtain and maintain a performance bond of not less than the contract price of this Agreement, which shall be executed by a California-admitted surety insurer. Bonds not so executed shall be rejected. Contractor shall submit two (2) executed copies on standard bonding company forms.

**Payment Bond:**  
Contractor shall provide DSH with a payment bond of not less than the contract price of this Agreement. The bond shall cover the costs of labor and materials provided by Contractor's employees, subcontractors, and suppliers in the event that Contractor fails to pay the costs of labor and materials to those individuals or entities. In order to meet this requirement, Contractor shall submit two (2) executed copies of the Payment Bond Form (STD 807). A copy of the STD 807 can be found at: <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std807.pdf>.

**Workers' Compensation:**  
If Contractor is required by statute, regulation, or Court order, to provide Workers' Compensation and Employer's Liability Insurance for performance of services under this Agreement, Contractor shall carry and shall maintain sufficient and adequate insurance for all of its employees who shall be engaged in the performance of this Agreement. Contractor shall maintain Employer's Liability limits of not less than \$1,000,000 per claim. Failure to maintain the insurance pursuant to this clause shall be deemed a material breach of the Agreement and DSH may terminate this Agreement for cause.

If required by DSH, in writing, Contractor shall furnish, within three (3) state business days following DSH's request, either 1) a copy of the certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier reflecting workers' compensation coverage; or 2) written confirmation, in a manner defined by DSH, that workers' compensation coverage is not required.

Contractor also agrees to indemnify, defend and hold harmless the state of California, DSH, its officers, agents and employees from any and all claims by Contractor's employees, agents and/or anyone representing Contractor, related to any non-performance of this section.

## 2. TERM OF INSURANCE:

- A. Insurance shall be in effect for the entire term of this Agreement. If the insurance expires prior to the end of the term of the Agreement, a new certificate must be received by DSH at least ten (10) days prior to the expiration of the insurance.

## 3. TERMINATION FOR NON-COMPLIANCE:

- A. In the event Contractor fails to keep in effect at all times the specified insurance coverage, this failure shall be deemed a material breach of the Agreement and DSH may, in addition to any other remedies it may have, terminate this Agreement with cause upon the occurrence of such event.

## 4. CERTIFICATE HOLDER AND SUBMISSION:

- A. Certificates of liability insurance must name DSH as a certificate holder and must be submitted to the following address:

Department of State  
Hospitals 1600 9<sup>th</sup>  
Street, Suite 101  
Sacramento, CA 95814

**5. SELF-INSURANCE REQUIREMENTS:**

- A. If Contractor is a California governmental entity, Contractor is not required to provide proof of insurance.
- B. For all other Contractors, for Workers' Compensation insurance, Contractor must be listed on the Department of Industrial Relations website as having a Certificate of Consent to Self-Insure.
- C. For all other Contractors, for all other insurance categories, Contractor must provide:
- i. A cover letter from Contractor's risk manager (or similar position) providing a description of the self-insurance plan for the types of coverage required in this Agreement. The description must detail what is covered by the plan and identify the source of funds for financing the plan.
  - ii. An audited financial report from the most recent quarter, along with any applicable accounting letters relative to the report.
  - iii. Evidence of firm having current equity of at least \$5,000,000 and current net profit of at least \$500,000.
  - iv. A signed written statement from Contractor's Certified Public Accountant (CPA) indicating the firm's annual net profit for the prior four (4) years has been a minimum of \$500,000.
- D. Contractor agrees to submit to DSH evidence of, upon request by DSH, and DSH reserves the right to verify, or cause to be verified, the source of funds for financing the self-insurance plan. DSH also reserves the right to require subsequent assistance from Contractor's risk manager to provide explanations of aspects of the self-insurance plan which need clarification. Upon request by DSH, Contractor shall provide additional reasonable assurances and documentation to DSH of its ability to meet the requirements to self-insure.
- E. Contractors which are self-insured for a specific type of insurance do not need to add the State as an additional insured.



**EXHIBIT H**  
**FEDERAL EMERGENCY MANAGEMENT AGENCY PROVISIONS**

*(Appendix H of the Agreement includes all Federal Emergency Management Agency (FEMA) requirements for Procurement Under Grants Conducted Under Exigent or Emergency Circumstances, with the exception of those requirements which were previously included in Exhibits A through G, and which were not added to avoid duplication of terms.)*

**1. 200.322 PROCUREMENT OF RECOVERED MATERIALS:**

A. Department of State Hospitals (DSH) and the Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 Code of Federal Regulations (CFR) Part 247 which contain the highest percentage of recovered materials practicable; consistent with maintaining a satisfactory level of competition; where the purchase price of the item exceeds \$10,000; or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that minimizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**2. APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY (NFE) CONTRACTS UNDER FEDERAL GRANTS AS APPLICABLE:**

A. Contract Work Hours and Safety Standards (40 United States Code (U.S.C.) 3701-3708). Contracts in excess of \$100,000 which involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchase of supplies or material; or articles ordinarily available on the open market; or contracts for transportation or transmission of intelligence.

B. Rights to Inventions Made under the Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR Part 401.2 (a); and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement”; the recipient or subrecipient shall comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- C. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Act (33 U.S.C. 1251-1387) as amended - Contracts and subgrants of amounts in excess of \$150,000 shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.), and the
- D. Federal Water Pollution Act (33 U.S.C. 1251-1387) as amended (33 U.S.C. 1251-1387). Violations shall be reported to the Federal awarding agency, and the Regional Office of the EPA.
- E. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR Part 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 CFR Part 180 which implement Executive Orders 12549 (3 CFR Part 1986 Comp., p.189) and 12689 (3 CFR Part 1989 Comp., p.235), "Debarment and Suspension." SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- F. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 shall file the required certification. Each tier shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, office or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant, or any award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying of non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to the non-Federal award.

### **3. ACCESS TO RECORDS:**

- A. The following access to records requirements applies to this contract:
  - 1. The Contractor agrees to provide U.S. Department of Homeland Security (USDHS), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
  - 2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - 3. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
  - 4. In compliance with the Disaster Recovery Act of 2018, the USDHS and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**4. US DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS:**

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

**5. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS:**

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

**6. NO OBLIGATION BY FEDERAL GOVERNMENT:**

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

**7. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS:**

- A. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.