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SCOID: 4265-2010810

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

20-10810

PURCHASING AUTHORITY NUMBER (if Applicable)

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

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTOR NAME

Duncan Channon

2. The term of this Agreement is:

START DATE

January 26, 2021, or upon approval whichever is latest.

THROUGH END DATE

December 31, 2021

3. The maximum amount of this Agreement is:

\$40,000,000.00 (**forty million dollars and zero cents**)

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	6
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit B, Attachment I	Budget Sheet	1
+ - Exhibit C*	General Terms and Conditions	(GTC 04/2017)
+ - Exhibit D	Special Terms and Conditions	6
+ - Exhibit E	Additional Provisions	6
+ - Exhibit F	Contractor's Release Form	1

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/01/5/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.)

Duncan Channon

CONTRACTOR BUSINESS ADDRESS

114 Sansome Street, 14th Floor

CITY

San Francisco

STATE

CA

ZIP

94104

PRINTED NAME OF PERSON SIGNING

Andy Berkenfield

TITLE

CEO

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

1/21/2021

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STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
STANDARD AGREEMENT
STD 213 (Rev. 04/2020)

AGREEMENT NUMBER
20-10810

PURCHASING AUTHORITY NUMBER (If Applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

1616 Capitol Avenue, Suite 74.262, MS 1802, PO Box 997377

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Christine Allre

TITLE

SSM II CDPH

CONTRACTING AGENCY AUTHORIZED SIGNATURE

 Christine Allre
Digitally signed by Christine Allre
Date: 2021.01.26 17:59:23 -0800

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

Executive Order N-25-20-COVID19

Exhibit A Scope of Work

Media Campaign Services to be Performed:

- A. Provide a comprehensive Covid-19 vaccine campaign plan in support of the following priorities:
- 1) Develop a strategic, overarching approach for public health messaging handling the vaccine rollout, navigate through continued Covid-19 uncertainty, and counter misinformation and disinformation.
 - 2) Develop a statewide strategic, media campaign that is cost efficient and maximizes reach of essential workers, Hispanic/Latinos and African American/Black populations, and other target groups determined by CDPH, based on internal and external research, including presenting CDPH market analysis to provide information about specific target audiences, market segmentation, most effective media placement recommendations, advertising effectiveness analysis, how to best position CDPH COVID-19 vaccine advertising messages relative to other social marketing and advertising campaigns, and the relative merit of selected strategies and messages.
 - 3) Prioritize campaign's goals and objectives and emphasize public health strategies and tactics to ensure users are reached where they consume information in multiple languages, using Medi-Cal's threshold languages as a guide (i.e., English, Spanish, Chinese, Korean, Vietnamese, Armenian, Cambodian, Farsi, Hmong, and Tagalog).
 - 4) Target California's essential workers, Hispanic/Latino and African American/Black populations and other target populations specified by CDPH in order to increase education and adoption of the COVID-19 vaccine.
 - 5) Manage vendors and subcontractors, as needed.
 - 6) Build upon the existing public awareness campaign assets, primarily social and digital, and utilize the current branding.
 - 7) A project management and monitoring plan for keeping CDPH apprised of all advertising activities, current personnel and subcontractors responsible for activities, and monitoring the effectiveness and cost efficiency of these activities. At a minimum, weekly status and insight reports and monthly budget summaries will be provided by the Contractor to CDPH, in a format approved by the State's Contract Manager or Contract Manager's designee, with additional reporting required at the discretion of CDPH during peak activity periods. Weekly status reports from the Contractor and subcontractors shall contain the following information at a minimum:
 - a. A list of open work orders, projects, and timelines, including, but not limited to: planning, research, creative development and production, pre- and post-testing of ads, talent fees; advertising traffic and placement, and technical assistance.
 - b. Status of progress and accomplishments for each work order and project.
 - c. Description of steps remaining for completion of each work order and project, and the date each step will be completed.

Exhibit A Scope of Work

- d. The names of primary and alternate Contractor staff assigned to coordinate and implement the work order or project.
 - e. Date of the status report and distribution list.
 - f. Provide at minimum weekly oral status reports by telephone conferences regarding activities of the multicultural advertising campaign. Any subcontractors deemed necessary shall participate directly in status calls.
 - g. The most current written ad status report required above shall be used as the agenda for the conference calls.
 - h. Provide briefings to leadership that presents information and rationale on proposed campaign as needed.
 - i. Provide technical assistance and training to CDPH and partner organizations as needed.
- B. Conceptualize, develop, pre-test, and produce advertising campaigns and assets, including activities such as:
- 1) Develop creative brief(s), including campaign strategy statement outlining potential settings, messages, message variables (tone, appeal, etc.), and key messaging.
 - 2) Secure the most cost-effective licensing buy-outs and talent agreements.
 - 3) Creative production should emphasize no or minimal live action production shoots.
 - 4) Anticipate changes based on consumer research, public health recommendations and/or scientific advancements.
 - 5) Ensure that facts in new ads are valid and consistent with scientific direction from CDPH. Obtain legal review and network clearance of ads, prior to production.
 - 6) Maintain, develop, and update content and materials for websites and interactive digital assets:
 - a. Create content and graphics to support the maintenance of landing pages.
 - b. Provide graphic design, copy-writing, editing, and related services needed for digital assets. Content shall be designed to optimize the user's experience across web platforms, including the growing number of mobile/device users.
 - c. Upon review and CDPH approval, if needed, develop campaign branded landing pages strategically designed to further engage the user to provide a comprehensive educational experience.
 - 7) Provide social media content to optimize the user's experience across social media platforms.
 - 8) Provide culturally appropriate translation and adaptation services and coordination. The Contractor must provide in-language communication assets.
 - 9) Deliver all produced advertising in requested formats (native files) to CDPH, for the purpose of archiving, in accordance with the CDPH library cataloging format to be provided by the Contract Manager or Contract Manager's designee.
 - 10) Upon request, create taggable versions of ads for use by state and local programs.

Exhibit A Scope of Work

- C. Create media buying plans that align with the strategic plan and effectively reach campaign specific target populations, including:
- 1) Negotiate the most cost-effective media placement to maximize target audience exposure with the recommended mediums to best reach target populations.
 - 2) Ensure media placement begins rapidly after the contract start date, and which utilizes tailored/existing assets where possible.
 - 3) Collaborate with CDPH staff to consult best practices, evidence base, and outcomes of previous campaign efforts for decisions about obtaining adequate Gross Rating Points and campaign intensity levels.
 - 4) Reports on the advertising campaign's implementation and outcomes, including media monitoring and optimization, summarized quarterly media buy reports and post-analysis, and a summary evaluation of the effectiveness of media placement.
 - 5) Detailed reports of media placement to be provided in a spreadsheet, upon request, that shall provide detailed information on actualized media:
 - a. Total impressions delivered, as applicable to each advertising medium.
 - b. Actual ratings delivered, as applicable for broadcast media.
 - c. Target demographics, e.g., age, gender, racial/ethnic group used for planning and reconciling media performance.
 - d. Detail by vendor, network or station for each designated media market (DMA), as applicable.
 - e. Dayparts by market, as applicable. Days aired and time(s) of day, upon request.
 - f. For digital, the click-through rates and cost per click or the agreed upon key performance indicator.
 - g. Third party measurement and detailed viewer data, as available, when requested by CDPH.
- D. Provide detailed media monitoring and tracking analysis designed to evaluate campaign recall, effectiveness, and attitude and perception change produced as a result of associated COVID-19 efforts and campaigns:
- 1) Develop, implement and maintain procedures for evaluating the effectiveness of the advertising campaign, including the content and emphasis of its strategic components.
 - 2) Evaluations of the effectiveness of media placement strategy and of creative, as follows:
 - a. All focus group and online research materials and reports.
 - b. Post buy report and analysis of ad effectiveness.
 - c. Key website and digital metrics.

Exhibit A Scope of Work

- E. Develop and execute a culturally competent, multilingual public relations strategy to engage diverse communities, handle crisis communications, and deploy rapid response messages.
- 1) Develop, implement, manage, and evaluate statewide and regional media relations and outreach activities to increase education and public awareness.
 - 2) Create full array of public relations materials necessary for the Covid Vaccine Campaign, including web content, media outreach, spokespersons, community outreach, etc.
 - 3) Create and execute a social media strategy including, content creation, messaging, community management, and social listening.
 - 4) Develop and execute a community engagement strategy, including preparing culturally competent and multilingual materials reflective of the populations that will utilize the resources.
 - 5) Coordinate and collaborate with the advertising partner(s) of the media campaign, as requested by the Contract Manager or Contract Manager's designee. This coordination may include, but is not limited to:
 - a. The integration of key messages from the advertising campaign and public relations activities.
 - b. Leveraging added-value opportunities with stations and publications.
 - c. Provide communications support – content review, key message development, media outreach - of advertising campaign launches.

F. **Work Orders**

The Contractor shall perform the services in this Scope of Work (SOW) according to the work order specifications in this section.

- 1) *Definitions:* "Work orders" are the detailed descriptions of services and deliverables to be provided pursuant to this agreement and a comprehensive plan, budget, and timeline for providing each service or deliverable. For purposes of this agreement, "services" and "deliverables" include, but are not limited to, items listed Services to be Performed.
- 2) *Due Dates:* Work orders for ongoing activities will be due within 30 calendar days of the start of this agreement and on June 1 of each state fiscal year (July 1 through June 30) thereafter. Work orders for quarterly media purchases should be submitted as soon as media plans are approved. Work orders for intermittent activities and special projects will be developed and submitted as requested by the Project Representative. The Contractor will receive at least ten calendar days' notice from CDPH to prepare and submit a work order for intermittent activities, special projects, and production.
- 3) *Contractor Responsibility:* The Contractor is responsible for submitting work orders for all work performed under this agreement, including any services and deliverables performed or provided in whole or in part by subcontractors or consultants. Subcontractors and consultants shall not submit work orders directly to CDPH. Work orders for work to be completed by subcontractors or consultants shall be signed and submitted by the Contractor. Any work performed by the Contractor or its subcontractors or consultants that is not covered by a CDPH-approved work order is at the Contractor's own risk.
- 4) *Required Information:* The work order shall include at a minimum the following:

Exhibit A
Scope of Work

- a. Contract number 20-10810, Contractor's name, date submitted, and a unique work order name and number assigned by the Contractor.
 - b. A description of the target audience(s) and the strategy and objective of the services and deliverables to be provided by the Contractor under the work order.
 - c. A detailed description of the services and deliverables to be provided during completion of the work order, including, but not limited to, as applicable: detailed activities, key milestones, evaluation methods and final deliverables.
 - d. Identification of any service(s) or deliverable(s) to be provided by a subcontractor or consultant and the name of the subcontractor or consultant.
 - e. The time period covered by the work order and a detailed timeline for completion of the service or deliverable.
 - f. A detailed work order budget based on the Contractor's Cost Proposal, including any mark-ups to be charged and the line items they apply to.
 - g. A description and estimate of any ongoing expenses, including, but not limited to: talent, photography, music, storage, and interactive digital content, maintenance and updates of an existing web site—which would be necessary to maintain the deliverable and preserve its availability for use. Detail of buyouts or period covered for each element should be included.
 - h. Contractor representative's printed or typed name and signature and date signed.
 - i. Blank spaces for the Project Representative's printed or typed name and signature and date signed.
- 5) *CDPH Review:* The Project Representative shall review the Contractor's proposed work order and may require the Contractor to revise portions or all of the proposed work order to the satisfaction of Project Representative. The Project Representative and the Contractor shall consult and negotiate in good faith to reach agreement on work orders.
- 6) *CDPH Approval:* The Project Representative's signature approval of the work order shall constitute the Contractor's authorization to provide the work order's service or deliverable under this agreement. Approved work orders shall become a part of this agreement without need for a formal amendment, and, as such, the terms and conditions of this agreement shall apply to the services performed under these work orders. The Project Representative may require changes to approved work orders without a formal amendment to this agreement.
- 7) *Work Order Termination:* The Project Representative may terminate, prior to or after submission and approval, a work order, in whole or in part, for any reason. Termination shall occur if the State no longer desires the service(s) or deliverable(s), due to program changes or lack of funding, or other unforeseen circumstances. The Project Representative shall notify the Contractor in writing whenever a work order is terminated and shall negotiate in good faith with the Contractor to determine the

Exhibit A
Scope of Work

payment for any work completed under the work order prior to termination. The notice of termination shall include the effective date of termination of the work order. If agreement on a payment amount is not reached, the Contractor shall follow the procedure described in Section 4 of Exhibit D, "Dispute Resolution Process."

2. Rejection or Reduction of Tasks, Activities, or Functions

If full funding does not become available, is reduced, or CDPH determines that it does not need all of the services described in an approved work order, CDPH reserves the right to request an amended work order from the Contractor for reduced services.

Exhibit B
Budgetary Detail and Provisions

1. Invoicing and Payment

- A. In no event shall the Contractor request reimbursement from the State for obligations entered into or for costs incurred prior to the commencement date or after the expiration of this Agreement.
- B. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the Budget Line Items amounts in Exhibit B, Attachment
- C. Invoices shall include the Agreement Number and shall be submitted not more frequently than monthly in arrears to:

Martha Dominguez
California Department of Public Health
MS 0508
PO Box 997377, 1616 Capitol Avenue
Sacramento CA, 95899-7377

D. Invoice shall:

- 1) Be prepared on Contractor letterhead. If invoices are not on produced letterhead invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent activities performed and are in accordance with Exhibit A.
- 2) Invoices must be submitted to CDPH either electronically or in hard copies.
- 3) Identify the billing and/or performance period covered by the invoice and include contract number.
- 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by CDPH.

E. Amounts Payable

The amounts payable under this agreement shall not exceed \$40,000,000

2. 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 be of no further 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 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.

Exhibit B
Budgetary Detail and Provisions

3. Prompt Payment Clause

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

4. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline.
- B. The Contractor is hereby advised of its obligation to submit to the state, with the final invoice, a completed copy of the "Contractor's Release (Exhibit F)".

5. Expense Allowability / Fiscal Documentation

- A. Invoices, received from the Contractor and accepted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to CDPH upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

6. Recovery of Overpayments

- A. Contractor agrees that claims based upon the terms of this agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State by one of the following options:
 - 1) Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment;
 - 2) A repayment schedule agreeable between the State and the Contractor.
- B. The State reserves the right to select which option as indicated above in paragraph A will be employed and the Contractor will be notified by the State in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund

Exhibit B
Budgetary Detail and Provisions

commencing on the date that an audit or examination finding is mailed to the Contractor, beginning 30 days after Contractor's receipt of the State's demand for repayment.

- D. If the Contractor has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the Contractor loses the final administrative appeal, Contractor shall repay, to the State, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the Contractor's first receipt of State's notice requesting reimbursement of questioned audit costs or disallowed expenses.
7. Any reimbursement for necessary travel and per diem shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources ([Cal HR](#)). If the Cal HR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. No travel outside the state of California shall be reimbursed without prior authorization from the CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.
- 8. Production Activities Payments**
- A. Upon approval of a work order requiring expenses of more than \$25,000 to be incurred by the Contractor for production activities, the Contract Manager may authorize payment of up to seventy-five percent (75%) of the approved work order estimate, net of mark-up, for pre-production activities; justification of the proposed costs must be provided. The Contract Manager may authorize an invoice sent outside of the monthly invoicing requirement named in section 1C. The remaining percentage shall be paid as actual costs are incurred, subject to CDPH's approval of progress made. Requests for payment of actual expenses incurred pursuant to this paragraph shall be submitted within monthly invoices accompanied by supporting documentation as required by section 1, "Invoicing and Payment."
- B. For purposes of this Agreement, "production activities" means production of advertisements or related campaign elements. Deliverables related to pre-production include but are not limited to: consumer testing recommendations including the production of stimuli; recommendation and search of director, production company, editing house, etc. including a detailed schedule of the entire production process leading to campaign launch; recommendation of locations with appropriate permits, talent including specifications of on-camera vs. extras, music direction consisting of original composition, stock and/or sound effects, identification of the campaign elements that will be part of the production including extensions in other mediums and version availability for further adaptations in other languages, other related campaigns, and local use. The most cost-efficient terms need to be considered and initiated during the pre-production process and documented once all agreements are final.

SERVICE	AGENCY NAME	BUDGET 1 2/1/21-6/30/21	BUDGET 2 7/1/21-12/31/21
Advertising Prime Contractor and Proposed Subcontractors			
List known Subcontractors by name and their target audience or specialization. If you plan to subcontract any portion of the Scope of Work but have not identified an agency, indicate TBD (to be determined) in place of the name. Budgets for ethnic or other priority populations should be listed separately even if provided in-house, unless included in total market budget.			
Total Market & AA Advertising	Duncan Channon, Inc.		
A. Production		\$ 1,750,000	\$ 750,000
B. Placement		\$ 13,933,913	\$ 5,831,747
Hispanic Advertising	Baru Advertising, Inc.		
A. Production		\$ 700,000	\$ 400,000
B. Placement		\$ 5,514,366	\$ 2,156,077
Asian Advertising	APartnership, Inc.		
A. Production		\$ 500,000	\$ 250,000
B. Placement		\$ 1,575,113	\$ 988,784
Research/Evaluation			
Web updates, hosting & maintenance		\$ 440,000	\$ 100,000
Talent, traffic, legal & miscellaneous		\$ 900,000	\$ 300,000
Social, community management & influencer		\$ 475,000	\$ 235,000
PR & community engagement		\$ 900,000	\$ 1,000,000
		\$ 650,000	\$ 650,000
	TOTAL Budget per above	\$ 27,338,392	\$ 12,661,608
	TOTAL Contract Budget	\$	\$ 40,000,000

Exhibit D
Special Terms and Conditions

1. Cancellation

- A. This agreement may be cancelled by CDPH without cause upon 30 calendar days advance written notice to the Contractor.
- B. CDPH reserves the right to cancel or terminate this agreement immediately for cause. The Contractor may submit a written request to terminate this agreement only if CDPH substantially fails to perform its responsibilities as provided herein.
- C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this agreement.
- D. Agreement cancellation or termination shall be effective as of the date indicated in CDPH's notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of cancellation or termination, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early cancellation or termination, the Contractor shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this agreement.

2. Intellectual Property Rights

A. Ownership

- 1) Except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- 2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
- 3) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

Exhibit D
Special Terms and Conditions

- 4) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- 5) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.
- 6) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

B. Retained Rights / License Rights

- 1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to CDPH, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- 2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of CDPH or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

C. Copyright

- 1) Contractor agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph (2)(a)] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work.

Exhibit D Special Terms and Conditions

Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.

- 2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2007, etc.], California Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the California Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

D. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to CDPH a license as described under Paragraph b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to CDPH, without additional compensation, all its right, title and interest in and to such inventions and to assist CDPH in securing United States and foreign patents with respect thereto.

E. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, without additional compensation, a license, as described in Paragraph b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and CDPH determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to CDPH.

F. Warranties

- 1) Contractor represents and warrants that:
 - a. It is free to enter into and fully perform this Agreement.
 - b. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 - c. Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any

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state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- d. Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
 - e. It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 - f. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to CDPH in this Agreement.
 - g. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - h. It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- 2) CDPH MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

G. Intellectual Property Indemnity

- 1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.
- 2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the

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defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- 3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

H. Federal Funding

In any agreement funded in whole or in part by the federal government, CDPH may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

I. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

3. Confidentiality of Information

- A. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- B. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- C. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- D. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
- E. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- F. As deemed applicable by CDPH, this provision may be supplemented by additional terms and

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conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

4. Dispute Resolution Process

A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.

- A. The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
- B. When appealing to the second level the Contractor must prepare an appeal indicating the reasons for disagreement with the Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal. The decision rendered by the Deputy Director or his/her designee shall be the final administrative determination of the Department.
- C. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.
- D. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

5. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

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1. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

2. Performance Evaluation

- A. The Contractor's performance under this agreement shall be evaluated at the conclusion of the term of this agreement. The evaluation shall include, but not be limited to:
- 1) Whether the contracted work or services were completed as specified in the agreement, and reasons for and amount of any cost overruns.
 - 2) Whether the contracted work or services met the quality standards specified in the agreement.
 - 3) Whether the Contractor fulfilled all requirements of the agreement.
 - 4) Factors outside the control of the Contractor, which caused difficulties in contractor performance. Factors outside the control of the Contractor shall not include a Subcontractor's poor performance.
- B. The evaluation of the Contractor shall not be a public record (PCC 10370).

3. Prohibited Follow-on Contracts

- A. No person, firm, or subsidiary awarded a consulting services agreement is prohibited from submit a bid or be awarded an agreement for services or goods suggested, in the end product of the awarded consulting services agreement
- B. Paragraph A does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services agreement which totals no more than ten 10% percent of the total monetary value of the consulting services agreement.
- C. Paragraphs A and B do not apply to services agreements subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.(Contract with Private architects, engineering, land surveying and contraction project management firms).

4. Insurance Requirements

Contractor shall comply with the following insurance requirements:

A. General Provisions Applying to All Policies

- 1) Coverage Term – Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the Agreement, a new certificate and required

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endorsements must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must comply with the original Agreement terms.

- 2) Policy Cancellation or Termination and Notice of Non-Renewal – Contractor shall provide to the CDPH within five (5) business days following receipt by Contractor a copy of any cancellation or non-renewal of insurance required by this Contract. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the CDPH may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- 3) Premiums, Assessments and Deductibles – Contractor is responsible for any premiums, policy assessments, deductibles or self-insured retentions contained within their insurance program.
- 4) Primary Clause – Any required insurance contained in this Agreement shall be primary and not excess or contributory to any other insurance carried by the CDPH.
- 5) Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least "A–" with a financial category rating of no lower than VI. If Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- 6) Endorsements – Any required endorsements requested by the CDPH must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- 7) Inadequate Insurance – Inadequate or lack of insurance does not negate Contractor's obligations under the Agreement.
- 8) Use of Subcontractors - In the case of Contractor's utilization of Subcontractors to complete the contracted scope of work, Contractor shall include all Subcontractors as insured under Contractor's insurance or supply evidence of the Subcontractor's insurance to the CDPH equal to policies, coverages, and limits required of Contractor.

B. Insurance Coverage Requirements

Contractor shall display evidence of certificate of insurance evidencing the following coverage:

- 1) Commercial General Liability – Contractor shall maintain general liability with limits not less than \$1,000,000 per occurrence for bodily injury and property damage combined with a \$2,000,000 annual policy aggregate. 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 Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to Contractor's limit of liability. The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

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- 2) Automobile Liability (when required) – Contractor shall maintain motor vehicle liability insurance with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Agreement involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required. The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 3) Worker's Compensation and Employer's Liability (when required) – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer's liability limits of \$1,000,000 are required. When work is performed on State owned or controlled property the policy shall contain a waiver of subrogation endorsement in favor of the State. This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 4) Professional Liability (when required) – Contractor shall maintain professional liability covering any damages caused by a negligent error; act or omission with limits not less than \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy's retroactive date must be displayed on the certificate of insurance and must be before the date this Agreement was executed or before the beginning of Agreement work.
- 5) Environmental/Pollution Liability (when required) – Contractor shall maintain pollution liability for limits not less than \$1,000,000 per claim covering Contractor's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site as well as transportation and proper disposal of hazardous materials. The policy shall be endorsed to include, "The State of California, its officers, agents, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
- 6) Aircraft Liability (when required) - Contractor shall maintain aircraft liability with a limit not less than \$3,000,000. The policy shall be endorsed to include, "The State of California, its officers, agents, employees and servants as additional insured, but only insofar as the operations under this Agreement." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

5. Incorporation of Proposal or Bid

The Contractor's proposal or bid is not attached hereto, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor's proposal or bid, this Agreement shall be controlling.

6. Subcontract Requirements

- A. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services exceeding \$5,000 for any articles, supplies, equipment, or services.

Exhibit E Additional Provisions

The Contractor shall obtain at least three complete quotations which should be submitted or adequate justification provided for the absence of bidding.

- B. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
 - 1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.
- C. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) exceeding \$5,000 are subject to the prior review and written approval of CDPH.
- D. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- E. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- F. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- G. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement and shall be the subcontractor's sole point of contact for all matters related to the performance and payment during the term of this Agreement.
- H. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

7. Procurement Rules

Except as provided in [Exhibit B, Attachment 1](#):

A. Equipment definitions

Wherever the term equipment and/or property are used, the following definitions shall apply:

- 1) **Major equipment:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is

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reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

- 2) **Minor equipment/property:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.

- B. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
- C. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- D. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

8. Equipment Ownership / Inventory / Disposition

- A. Wherever the terms equipment and/or property are used under this provision, the definitions in Provision 12, Paragraph A, shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement shall be considered state equipment and the property of CDPH.

- 1) CDPH requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by CDPH or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the CDPH Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by CDPH's Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with CDPH Funds) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager.

- 2) If the Contractor enters an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the CDPH Program Contract Manager using a form or format designated by CDPH's Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of CDPH-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager. Contractor shall:

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- a. Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
 - b. Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.
 - c. Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.
- B. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
- C. Unless otherwise stipulated, CDPH shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
- D. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- In administering this provision, CDPH may require the Contractor and/or Subcontractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or property. Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the CDPH Program Contract Manager.
- E. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH agreement.
- F. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the CDPH Program Contract Manager and shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

Exhibit F Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

Submission of Final Invoice

Pursuant to contract number 20-10810 entered into between the State of California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) _____, in the amount(s) of \$ _____ and dated _____

If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by CDPH or purchased with or reimbursed by contract funds)

Unless CDPH has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another CDPH agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to CDPH, at CDPH's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): Duncan Channon

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

CDPH Distribution: Accounting (Original) Program