

**STANDARD AGREEMENT - AMENDMENT**

STD 213A (Rev. 4/2020)

☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 31 PAGES

AGREEMENT NUMBER

19-11095

AMENDMENT NUMBER

A01

Purchasing Authority Number

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

CONTRACTING AGENCY NAME

California Department of Public Health (the State)

CONTRACTOR NAME

Logistics Health, Inc. (the Contractor)

2. The term of this Agreement is:

START DATE

April 21, 2020

THROUGH END DATE

August 31, 2020

3. The maximum amount of this Agreement after this Amendment is:

\$100,000,000.00 (not to exceed)

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

I. The purpose of this amendment is to extend the term of the Agreement to August 31, 2020, and update the following exhibits to the Agreement:

- a. Exhibit A Statement of Work
- b. Exhibit A Attachment 1
- c. Exhibit B Payment Provisions
- d. Exhibit C General Terms & Conditions (GTC 04/2017)
- e. Exhibit E FEMA Provisions

These amended exhibits are enclosed herein.

II. The reference to Exhibit D Attachment 1 "HIPPA Business Associate Addendum" is erroneously omitted on the executed STD 213 Form of the Agreement, which is hereby amended to include the reference.

*All other terms and conditions shall remain the same.*

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.)

Logistics Health, Inc.

CONTRACTOR BUSINESS ADDRESS

328 Front Street South

CITY

La Crosse

STATE

WI

ZIP

54601

PRINTED NAME OF PERSON SIGNING

Anne Therese Finch

TITLE

Chief Executive Officer

CONTRACTOR AUTHORIZED SIGNATURE

Anne Finch

Digitally signed by Anne Finch  
Date: 2020.06.19 13:57:07 -05'00'

DATE SIGNED

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AGREEMENT NUMBER

**19-11095**

AMENDMENT NUMBER

**A01**

Purchasing Authority Number

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

Tim Bow

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

**Timothy Bow**Digitally signed by Timothy Bow  
Date: 2020.06.19 12:03:49 -07'00'

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)  
EO N-25-20/PCC 1102

**EXHIBIT A  
STATEMENT OF WORK**

This Agreement is for specimen collection and testing services for COVID-19 Response Efforts, pursuant to the Governor's Emergency Declaration. This Agreement is entered into by and between the California Department of Public Health (the "State"), on the one hand, and on the other hand, Logistics Health, Inc. ("Contractor" or "OSHS").

**1. AGREEMENT TERM**

- A. The term of the agreement shall be from the date of contract execution to the end date as specifically noted on the attached STD 213 Standard Agreement (the "Effective Date"). the State reserves the right to extend this Agreement until thirty (30) days after the lifting of the declaration of the COVID-19 state of emergency.
- B. In addition to any other provision of this Agreement, the State may terminate this Agreement or cancel a portion of the service for any reason with fifteen (15) days written notice.

**2. PROJECT REPRESENTATIVES**

**A. The Project Representatives during the term of this Agreement will be:**

<u>The State</u> <u>Attention: Ngoc Ly Le</u> <u>CDPH Testing Task Force Project</u> <u>Manager</u> <u>California Department of Public</u> <u>Health</u>  <u>Telephone: (916) 445-9692</u> <u>Email: ngoc.le@cdph.ca.gov</u>	<u>OSHS</u> <u>Attention: Sarah Wabaunsee</u> <u>Director, Program Management</u> <u>Logistics Health, Inc.</u> <u>328 Front Street South</u> <u>La Crosse, WI 54601</u>  <u>Telephone: (866) 284-8788 Ext. 51116</u> <u>Email: swabaunsee@logisticshealth.com</u>
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**B. Direct all inquiries to and notices to:**

<u>The State</u> <u>Attention: Ngoc Ly Le</u> <u>CDPH Testing Task Force Project</u> <u>Manager</u> <u>California Department of Public</u> <u>Health</u>  <u>Telephone: (916) 445-9692</u> <u>Email: ngoc.le@cdph.ca.gov</u>	<u>OSHS</u> <u>Attention: Sarah Wabaunsee</u> <u>Director, Program Management</u> <u>Logistics Health, Inc.</u> <u>328 Front Street South</u> <u>La Crosse, WI 54601</u>  <u>Telephone: (866) 284-8788 Ext. 51116</u> <u>Email: swabaunsee@logisticshealth.com</u>
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**C. Either Project Representative may make changes to the contact information in Sections A or B above by giving written notice to the other party without amendment to the Agreement.**

**3. SCOPE**

1. Contractor shall provide all labor, tools, materials, equipment, and travel expenses to perform specimen collection and testing services in accordance with the terms and conditions of this Agreement. Additional information regarding Contractor is contained in Exhibit A, Attachment 1. The State will opt for the complete delivery model as set forth in section 2.0 of Exhibit A, Attachment 1. In the event of a discrepancy, ambiguity and/or inconsistency between Exhibit A, Attachment 1 and the articles, attachments, or provisions which constitute this Agreement, the State's terms and conditions shall take precedence.
2. Contractor shall perform services at the rates identified in Exhibit B.

**4. CONTRACTOR INTELLECTUAL PROPERTY**

Contractor retains all right, title and interest in and to its proprietary client portal, LHI.Care, the MedNet technology platform, all related data and documentation, all other proprietary processes, procedures and tools used by Contractor to perform the services under this Agreement, and all intellectual property rights therein, including but not limited to all modifications, enhancements, improvements and derivative works thereto (collectively, the "OSHS IP"). No title to or ownership of the OSHS IP are transferred to the State in connection with this Agreement.

**5. CONTRACT MANAGEMENT**

The Contractor shall provide the State the name, address, telephone number and e-mail address of its Contract Manager directly responsible for managing this

Agreement. Should the Contractor's Contract Manager change or any of its contact information change, the Contractor shall provide the State Contract Administrator updated information no later than 24 hours after the date of such change. The Contractor is responsible for notifying the State in writing of any changes to a contact person, address, telephone numbers, or any other information deemed important to the functionality of the Agreement.

## State of California Testing Task Force



## COVID-19 Sample Collection Sites State of California

**POINT OF CONTACT**

Lora Gross  
Contracts Manager

**ADDRESS**

Logistics Health, Inc. (LHI)  
328 Front Street South  
La Crosse, Wisconsin 54601

**EMAIL**

lgross@logisticshealth.com

**PHONE**

(866) 284-8788, ext. 56601

**FAX**

(608) 783-7532

**BUSINESS SIZE**

Large

**SUBMITTED TO**

Paul Markovich  
Paul.Markovich@blueshieldca.com

Charity Dean  
Charity.Dean@cdph.ca.gov

Bob Kocher  
bkocher@venrock.com

**DATE**

April 17, 2020

**CAGE CODE**

1RTW6

**DUNS NUMBER**

131468071

## 1.0 EXECUTIVE SUMMARY

OptumServe Health Services (OSHS), powered by Logistics Health, Inc. (LHI) is pleased to submit this response to the State of California **(the "State")** to describe our capabilities to provide COVID-19 Specimen Collection throughout the State. Founded in 1999, OSHS has provided health services nationwide to support both public and private employers requiring occupational, medical, and dental health services. We integrate cost-effective services with professional management and dedication to quality performance measures. As one of the nation's largest administrators of employer-based occupational and regulatory health programs, we provide more than four million services annually in all U.S. states and territories for our Veterans, Military Service members, Government and commercial clients. OSHS designs, implements, and manages a broad spectrum of services through our appointment-based services at medical facilities (in-clinic), mobile events, and Contact Center delivery channels.

In 2019, OSHS coordinated 4.9 million health care services for more than 760,000 individuals. OSHS has a proven track record of providing high quality services, and our commitment to continuous improvement ensures that our service delivery meets and exceeds our clients' expectations. Our strengths are built upon our knowledge and resources combined with proven tools that provide a superior foundation for managing the occupational and health readiness needs of clients nationwide.

OSHS is a trusted partner of Government agencies and industry-leading private sector clients. Services are offered to the OSHS customers listed in **Exhibit 1**.

**Exhibit 1: OSHS Programs**

Department/Category	Program
Department of Veterans Affairs (VA)	<ul style="list-style-type: none"><li>▪ Veterans Benefits Administration Medical Disability Examinations (VBA MDE)</li><li>▪ Community Care Network (CCN)</li></ul>
Department of Defense (DoD)	<ul style="list-style-type: none"><li>▪ Reserve Health Readiness Program (RHRP) II, Reserve/Active Components</li><li>▪ United States Military Entrance Processing Command (USMEPCOM)</li><li>▪ Global Nurse Advice Line</li></ul>
Department of Health & Human Services (DHHS)	<ul style="list-style-type: none"><li>▪ World Trade Center Health Program, Nationwide Provider Network</li><li>▪ World Trade Center Health Program, William Street Clinic</li></ul>
Transportation Companies (Commercial)	<ul style="list-style-type: none"><li>▪ BNSF Railway Clinic Based Medical Exams</li><li>▪ Union Pacific Railroad Occupational Health Services</li></ul>

OSHS is capable of and experienced in providing all COVID-19 collection services required by the State of California. Our unique capabilities are featured in **Exhibit 2**.

## Exhibit 2: Unique Capabilities of OSHS

Feature	Benefits to State of California
<b>OSHS brings more than 20 years of experience</b>	<ul style="list-style-type: none"> <li>Improves performance and reduces program risk and costs because staff are immediately available and trained on relevant processes and applicable Standard Operating Procedures (SOPs)</li> <li>Improves performance and reduces costs through in-place suite of tools and processes to support all services</li> <li>Improves performance and client satisfaction by providing experienced, thought leadership in all clinical and non-clinical functions</li> <li>Lowers risk through proven ability to handle high volumes of orders across multiple concurrent task orders</li> </ul>
<b>Established network of credentialed, trained health care professionals including phlebotomists, medical technicians, and nurses</b>	<ul style="list-style-type: none"> <li>Improves performance and client satisfaction through service continuity, data accuracy, and timely delivery</li> <li>Reduces costs and risks through established training protocols with the providers in our network</li> <li>Improves performance through exceptional compliance with regulatory requirements to ensure documentation is accurate and efficient</li> <li>Enhances quality and reduces costs by using providers with greater e-capabilities</li> </ul>
<b>Proprietary workflow and data management system - MedNet</b>	<ul style="list-style-type: none"> <li>Improves performance by creating an electronic record of services</li> <li>Enhances performance by providing real-time processing and uploading of information</li> <li>Improves quality through automated quality control (QC) checks and proactive issue identification and resolution</li> <li>Improves reporting and quality monitoring by providing detailed management records of all activities, recorded calls, and reportable encounters</li> <li>Improves performance by automating operational processes, sending event task triggers to the appropriate department, allowing for dynamic reprioritization of work, and automatically generating reports and communications</li> </ul>

OSHS is a wholly owned subsidiary of Optum Holdings LLC, part of the UnitedHealth Group family of businesses. UnitedHealth Group is a leading, Fortune 6 health and well-being company serving more than 142 million individuals and operating in all 50 states, the District of Columbia, most U.S. territories, and more than 140 countries worldwide. UnitedHealth Group offers some of the nation's largest healthcare networks and healthcare delivery systems with nearly 1.4 million credentialed physicians and other healthcare providers and 6,500 hospitals and other facilities.

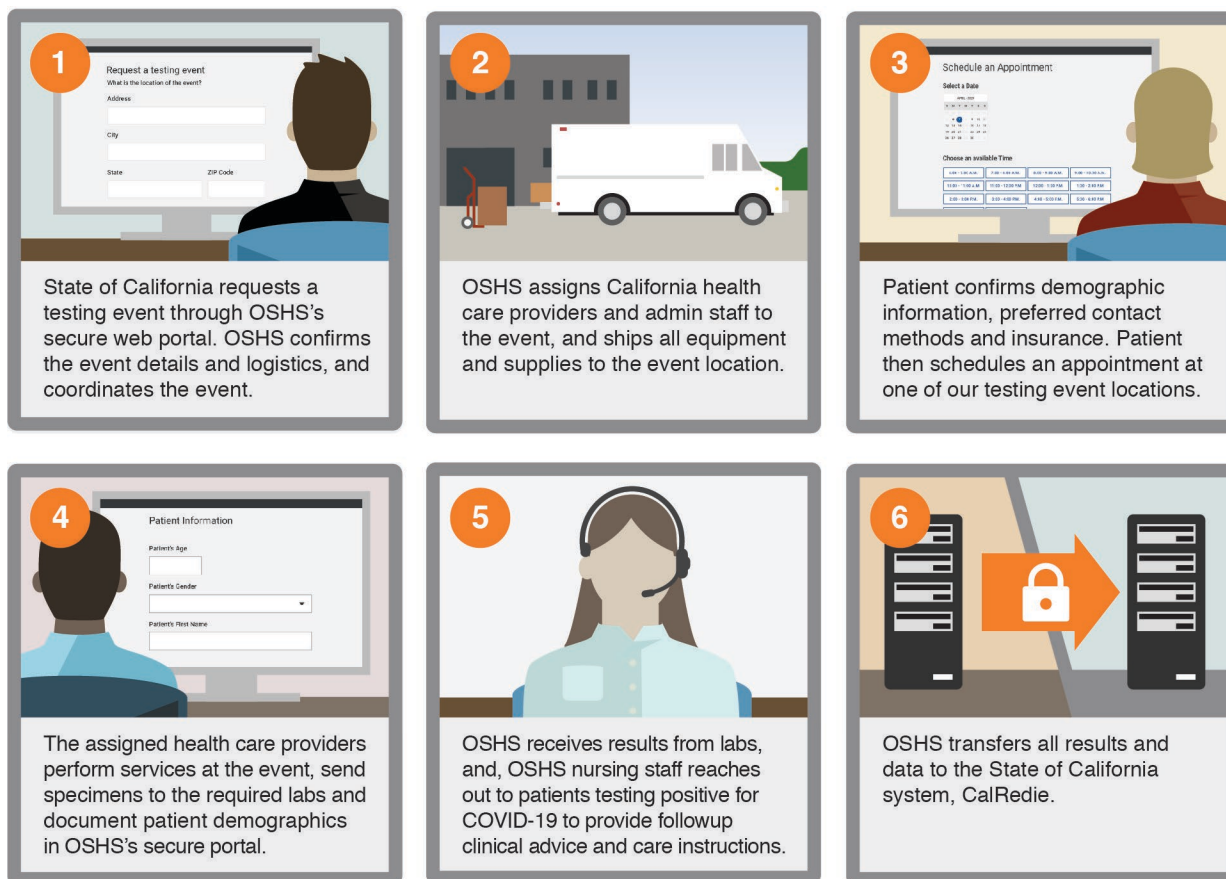
## 2.0 DETAILED EVENT PROCESS

OSHS has established processes for managing and executing events for large groups of patients in need of health care services at the same location, during the same time simultaneously at multiple locations across the country seven (7) days a week. OSHS typically supports events on military installations, drill halls and gymnasiums, however this model is flexible enough that testing events can be conducted in community centers, schools, hotels or even in more obscure locations such as parking lots or other locations where drive thru testing could occur.

As outlined below, OSHS would receive an event request to include the location and target number of individuals for testing, schedule and coordinate all event related activities, perform the event and collect data electronically and report results to individuals.



### Exhibit 3: COVID-19 Testing Event Process Flow



OSHS can support up to 80 events at one time throughout the State of California. **The State reserves the right to increase the number of events beyond 80 at the rate identified in Exhibit B, provided that the State gives OSHS the notice required below.**

**For each testing location, OSHS will provide A a team would that consists of four members; one Event Oversight Administrator (EOA), one clinical staff member (i.e. NP, RN, LPN, Phlebotomist, MA), one non-clinical staff members and one security team member. As requested, some locations can include a medical interpreter. Each team would be able to complete, in a 12 hour day, 132 tests per site/day and could increase capacity if additional teams are added or requested at each site. If the State desires to increase capacity of an existing team by adding additional staff members, the State agrees to contact the OSHS Project Representative identified in Exhibit A to communicate the request. OSHS will implement the state's request to increase staffing capacity within fifteen (15) business days of receiving the State's request, and OSHS agrees that the cost of any additional staff members will be calculated at the rate identified in Exhibit B.**

**Drive Thru Testing Option: The State also reserves the right to expand testing locations to allow for drive thru testing. Two weeks advanced notice from the State will be needed for OSHS to set up this request, and OSHS agrees that the cost of**

the drive thru testing will be calculated at the rate identified in Exhibit B. If a weather event, such as excessive heat or storms, makes drive thru testing impractical on a particular day, OSHS may cancel or delay the event, provided that OSHS provides twenty-four (24) hours notice prior to event cancellation or delay to the State representatives, the county point of contact ("Event POC"), and registered attendees affected by the cancellation or delay.

The Hosting County will provide any additional security, traffic control, custodial and/or other services necessary to set up a drive thru testing event. The Hosting County of a drive thru testing event shall be financially responsible for the cost of any necessary staffing, traffic control and custodial services, including trash collection, to securely execute such a drive thru testing event. In the event either party determines that there exists inadequate staffing set up to safely execute an event, either State or OSHS may cancel or delay a drive thru testing event.

OSHS Testing Events consist of three phases that need to be managed: pre-event, event, and post-event.

## 2.1 PRE-EVENT

The State will provide each county (the "Hosting County") a copy of the OSHS Statement of Work and will work with counties to identify the zip code where the testing facility(ies) is recommended to be located. The final determination of location will be made by the Hosting County. This determination will be based on factors including, but not limited to, the following:

- The county's existing access to testing (both in regard to time to reach a testing site and total population);
- The number of Covid-19 positive cases in the county;
- The average income level in the county;
- The diversity of population in the county; and
- The percentage of population in high risk groups, including over 65 years of age, with preexisting health conditions, etc.

The Hosting County will secure the testing facility and will identify the Event POC to OSHS. The Event POC will communicate the location of the testing facility to OSHS. Once finalized between the Hosting County and OSHS, a testing facility will not be relocated for at least four (4) weeks, unless the State deems it necessary to relocate in accordance with the provisions of this Agreement. Any request for relocation by the Hosting County shall be after the initial four (4) weeks and subject to written authorization from the State.

~~Upon the State of California securing a testing location, a request can be submitted to OSHS via the Client Portal, email, or by telephone from a designated entity within the State of California, which has been deemed the County Point of Contact. Once the request is received,~~ Upon receipt of a confirmed testing facility, OSHS will ~~we~~

immediately assign a Testing Event Coordinator who will manage the coordination details for the requested event. Our **The OSHS** Testing Event Coordinators will work with the State Event Point of Contact (POC) to ensure OSHS has all the information needed. Those details include:

- The event location—street address, building number, city, state, and ZIP Code
- **Visual depiction of the site with proposed traffic flow**
- Start and end dates of the event and start and end times for each event day
- Event POC and contact information including office and mobile phone numbers
- Confirmation of security, building maintenance, custodial services with the Event POC
- Confirmation of **Event** POC to send supplies and equipment to for set-up
- Identification and registration of patients to receive services
- Site layout, electrical needs and internet connectivity
- **Proposed signage and location of signage**
- Any other details required

Additionally, for those events in a building, OSHS will be working with the State **Event POC** on how to limit how germs enter the facility; minimize chance of exposure/risk, implement movement controls, and manage access and movement within the confines of the event location. ~~To~~ include:

- Lay-out and flow for the event to ensure 6-10 feet of social distancing for all patients as well as healthcare providers;
- Utilization of the entire building facility for completion of the medical and administrative portions of the event;
- Maintain social distancing and group requirements in accordance with the State, CDC and WHO guidelines; and
- Only allowing a set number of patients into the event areas at one time with the use of staging, sizing, staggering and focused movements throughout the event

Once the event is confirmed, Event Operations Center (EOC) Staffing Coordinators generate the order **("Order")** that details the required staff for each site, to include healthcare providers, administrative staff, medical interpreters (as needed) and security. Once the above event details are confirmed, an event can start within **five (5) calendar days of the Order. If the fifth day falls on a Saturday, Sunday or Federal holiday, the event would begin on the next business day.**

Due to the fact that appropriate **public** health officers **(issuing blanket public health orders for testing)** will serve as **the** referring licensed physicians **for the purposes of ordering the testing**, the EOC Staffing Coordinators will not communicate with the referring physician(s) with regards to identification and registration of patients for the events. OSHS will follow the State guidance at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Expanding-Access-to-Testing-Updated-Guidance-on-Prioritization-for-COVID-19-Testing.aspx> (or a

**superseding version)**, for eligibility criteria of attendees for testing events. In addition, OSHS will work with the ~~point of contact within each County~~ **Event POC** on groups of individuals to be tested in order to ensure that anyone that needs a test gets a test as indicated by the ~~Ccounty~~. The EOC Staffing Coordinators are also responsible to ensure that the appropriate equipment and supplies are requested per the **Order**. If necessary, ~~our~~ **OSHS** Travel Coordinators are responsible for arranging travel to ensure designated staff can get to their respective sites on time.

**Scheduling.** Once the event location, date and times are established, OSHS will work with the **Hosting** County on how best to reach out to eligible attendees, ~~either via email, text or phone call~~ advising they are able to schedule a time for receiving their test. The notification will direct the patient to create an account and log in to the OSHS secure patient portal, LHI.Care.

Once logged in, the patient will be presented with Testing Events in their area. After selecting a preferred testing location, the patient will choose a testing date and time. Available dates and times are displayed based on open capacity. Capacity is predetermined for the event based on the staffing model and calculated daily throughput. Upon selection of the date and time, the patient will receive a confirmation of the scheduled testing appointment along with their unique Authorization Id to present at the test location.

The patient will also receive a testing appointment reminder prior to their scheduled test date, advising that they can see full appointment details in LHI.Care if necessary. For patients with no internet access they can contact our Medical Service Coordinators who will be able to confirm demographic and preferred contact method information as well as collect any insurance information. They will then register them for an event site as well as a date and time for an appointment.

At this time, it is assumed that all event attendees will have an appointment for their sample collection. If a patient does not have access to the internet, a toll free number will be offered to patients to allow them to contact OSHS who will complete the registration and appointment scheduling over the phone. At this time, "walk-in's" will not be allowed **but may be permitted by mutual agreement of OSHS and the State.**

**Specimen Collectors.** OSHS maintains an experienced network of more than 29,000 health care professionals in all 50 U.S. states and territories, the District of Columbia, and Germany. This includes 400+ credentialed health care providers from California that ~~we~~ **OSHS** ~~uses~~ primarily for mobile events in RHRP that can be utilized for specimen collection for this program. As an NCQA certified Credentials Verification Organization (CVO), OSHS ~~has~~ **will have** the experience, systems, and processes in place to ensure ~~our~~ **OSHS** providers meet the highest standards of quality.

Depending on the expected volume, ~~we~~ **OSHS** can expand these capabilities if necessary to meet increased demand. As a subsidiary of UnitedHealth Group, ~~we~~ **OSHS** can access additional networks of medical professionals ~~and we can also work directly with the State of California to leverage local talent that could serve in either clinical or non-clinical roles.~~ **For each testing facility, OSHS agrees to make a good faith effort to hire local talent for both clinical and non-clinical roles.**

**Distribution Operations Center (DOC).** ~~From our work managing nearly 2,000 annual mobile group events for RHRP over the past 18 years, we have~~ **OSHS has** implemented world class logistics and shipping capabilities through ~~our~~ **its** Distribution Operations Center (DOC). ~~Our~~ **OSHS'** systems are integrated directly with FedEx web services, and ~~our~~ **OSHS'** established relationship with FedEx provides ~~us~~ **OSHS** with their best available pricing (~~no other commercial or government entity receives better pricing from FedEx~~). ~~We have~~ **OSHS has** negotiated pricing based on weight, not distance, eliminating the need for multiple warehouses and reducing shipping costs. As a major FedEx customer, ~~we have~~ **OSHS has** a unique ZIP Code and warehouse at ~~their~~ **its** Memphis hub, which allows for prioritized shipping over other customers. A single, centralized warehouse provides a secure, controlled environment, including certified cold-chain storage capabilities.

~~Our~~ **The OSHS** DOC will ensure any medical supplies, IT equipment, and administrative supplies (tents, tables, traffic cones, generators, signage etc.) are prepared, packaged, and shipped to the Testing Event sites.

**Staff Training.** Ahead of the event, all staff will be required to undergo training that will be conducted within an online training module. The training will include processes for collection/handling of specimens, rules for wearing PPE, donning and doffing PPE, and hand washing hygiene.

## **2.2 EVENT**

The day prior to the event **OSHS will complete** all set-up ~~will be completed~~. The EOA will work with the State **Event POC** to further evaluate the accommodations and determine the event set-up to account for best event flow, privacy for providers, and sound-level monitoring. They will establish the best fit for the services being provided at the particular event and set up the tents, tables, chairs, privacy screens, signage, laptops, printers, and scanners depending on the type of event being offered.

During the event, ~~our~~ **the OSHS** Event Oversight Administrator (EOA)/Leads at each site will ensure the administrative staff and HCPs perform all requested services required at each location. The EOA at each site will be the primary POC during the event. They will establish communication with the team, meet with them to address any concerns onsite, and manage the set-up process according to the event plan. The EOAs monitor the schedule, event flow, and timeliness of the services to ensure all requested testing is completed at the event. If any administrative or other issues arise regarding staffing, equipment malfunctions, training questions, or clinical questions, the EOA will be able to communicate with staff from the various OSHS supporting functions who are available on call 24x7 while events occur.

Each site will be configured to provide the maximum output of screenings while maintaining strict controls over protected health information (PHI), personally identifiable information (PII), infection control and patient and staff health and safety. Event attendees will be verified upon arrival to the testing location by administrative staff and then provide any additional PHI/PII **as necessary pursuant to title 17 of the California Code of Regulations section 2505** to complete the laboratory requisition for their specimen. **Specifically, OSHS shall collect from each event attendee the following data fields:**

- **The date of the event.**

- The name, address, telephone number (if known), pregnancy status, and date of birth of the event attendee.
- As optional information, the event attendee's primary care physician contact information.

Upon completion, the patient will proceed into the testing area where they will be greeted by event staff. Once the specimen is collected, the clinician will release the patient from the event, and then exit the testing location to store the collected specimen and replace their PPE based on encounter level. The clinician will then collect the next patient's specimen collection supplies and proceed to the testing location to greet them. The State reserves the right to add testing lanes at a given testing site and order additional supplies for offsite testing based on need at each site subject to the prior notice and other requirements of this Agreement.

As part of our the OSHS standard operating procedures, administrative staff and health care providers are instructed to use disposable wipes to routinely clean all frequently touched surfaces.

Offsite Specimen Collection: The State reserves the right to authorize OSHS to provide Hosting Counties with additional testing supplies for offsite tests during an event under this Agreement, dependent upon OSHS' ability to procure sufficient additional testing supplies to meet the State's request in the timeframe requested. Additional testing supplies shall be provided at the rate identified in Exhibit B. With at least seven (7) calendar days advanced notice from a Hosting County to OSHS requesting such additional testing supplies, and with the State's authorization, OSHS will work with the Hosting County to provide additional testing supplies for the Hosting County to conduct offsite testing. The Hosting County will schedule a one (1) hour time slot for testing supply pickup and registration of offsite individuals to be tested. The Hosting County must provide sufficient information for each individual to be tested offsite to register each such individual in the system and to generate a lab requisition for each such individual. In scheduling pickup of testing supplies and registration of individuals for offsite testing, the Hosting County will work with OSHS to avoid delays in processing scheduled appointments at the test site. The Hosting County will also advise OSHS how screening questions should be answered on LHI.Care for each individual to be tested offsite. Any additional specimens collected by the Hosting County from offsite testing shall be delivered to OSHS, which will forward them to the desired lab locations for testing and analysis. Lab testing results reporting will follow the Results Reporting procedures as set forth under Post-Event below.

## 2.3 POST-EVENT

Daily, our OSHS EOAs manage specimen pick-up to the desired lab locations as depicted by the State of California, daily specimen completion numbers, the FedEx or other courier pick-up information, disinfecting, clean-up and daily staff departures. ~~OSHS would~~

~~recommend that the State Event POC coordinate for a~~ **The Hosting County will be responsible for** deep cleaning of the site **and trash collection** each evening. ~~We~~ **OSHS** will comply with all local, state, and Federal laws for disposing of medical waste and biohazardous materials. ~~They~~ **OSHS** will also manage communication with the State of California and the OSHS Distribution Operations Center for additional supply requests as necessary.

**Results Reporting:** The data collected at the event is automatically uploaded and processed in MedNet to await the lab results. **OSHS will upload the information processed in MedNet to the State's CalREDIE system, excluding the results from Quest Diagnostics ("Quest"), which will be uploaded by Quest directly into CalREDIE. The State will also have access to reports in the Client Portal.** Upon receipt of the lab results, each patient will receive a notification via email, text or phone call, **based on the patient's stated preference,** advising them that their results are available. For all negative results, patients will be able to retrieve those results directly from LHI.Care if they opted into the email or text notifications. If they preferred a phone call, ~~one of our~~ **OSHS** Clinical Operations department team members will reach out with that testing notification.

For any positive results, ~~a nurse in our~~ **the OSHS** Clinical Operations department and/or the reference laboratory will call the patient regarding the results and clinical care path as directed by the State of California. This information will then also be posted in LHI.Care for the patient to retrieve and review for discussion with their primary health care provider. All notifications will be made according to local, state, and federal guidelines and statutes.

**Data Transmission:** Additionally, all data collected and results received will be sent **to the Hosting Counties' Health Officers and the California Department of Public Health** via data exchange to CalREDIE **by either OSHS or the lab used by OSHS to process the tests. OSHS must coordinate with the lab to ensure that the data and results are reported and uploaded only once to CalREDIE. If a Hosting County does not use CalREDIE, OSHS will ensure that all data and results are reported separately through State-approved means to such Hosting County.**

**OSHS must comply with the State's mandated reporting requirements as set forth under title 17 of the California Code of Regulations section 2505. To the extent known, the results and data shall include the date the specimen was obtained, the patient identification number, the specimen accession number or other unique specimen identifier, the specimen site, the diagnosis code, the laboratory findings for the test performed, and the date that the laboratory findings were identified. The results and data shall also include the name, address, telephone number (if known), pregnancy status, and date of birth of the person from whom the specimen was obtained. In addition, to the extent volunteered by the patient, OSHS will report race/ethnicity data fields, and patient's primary care physician.**

~~Upon contract execution we~~ **OSHS** will work with CalREDIE IT staff to establish the interface as quickly as possible. Testing can start even before an interface is complete and data will be transmitted as soon as the interface passes testing from both ~~our~~ **OSHS** team and the CalREDIE team. **If the interface is not complete at the time of testing,**

**OSHS must still ensure test results and data are reported pursuant to title 17 of the California Code of Regulations section 2505.**

Our system, The MedNet system allows flexibility in defining and implementing custom data schemes and formats such as extensible mark-up language (XML), HL7 EHR formats, flat file formats, Excel, and Access. It also provides various data exchange methodologies with configurable frequency and content to include bi-directional secure file-transfer protocol (FTP), secure web services, and web site data export. All data sent to CalREDIE will be provided in real time as updates are being confirmed in MedNet. This ensures that CalREDIE receives the most up-to-date information as quickly as possible. OSHS also provides secure access electronic documentation and reporting on an as needed basis through our Client Portal.

**Claims Billing:** Upon completion of the testing process, OSHS has the ability to will bill patient's insurance carriers and/or provide this patient's insurance information directly to the State of California. OSHS will collect insurance information and bill the insurance directly for the cost of services. **OSHS will make a good faith effort to obtain reimbursement from a patient's insurance carrier.**

**Event Conclusion:** Upon conclusion of the need for each testing site, ~~our~~ the OSHS EOAs manage supplies and equipment packaging, removal and return, and facility/site restoration. The Distribution Center is responsible for managing post-event supplies processing; and ~~our~~ OSHS computer technicians are responsible for equipment re-inventory.

**3.0 ALTERNATE DELIVERY MODEL – HYBRID STAFFING MODEL**

~~The above event delivery model can be customized at each stage in order to support a collection site that is managed locally with resources from the State of California.~~

~~OSHS can also support a consulting arrangement site, whereby, we would complete all pre-event related activities as outlined above to include event coordination, local staffing arrangements with the State, scheduling, distribution and training. OSHS will be able to provide training to local staff that the State of California would use within this hybrid model. Training will include how the site will operate, use of technology on site as well as collection procedures that need to be followed. The training will be provided for both Administrative and Clinical roles.~~

~~In this model, OSHS would supply the Event Oversight Administrator who will be the primary POC during the event. They will establish communication with the local team, meet with them to address any concerns onsite, and manage the set-up process according to the event plan. The EOAs will be able to monitor the schedule, event flow, and timeliness of the services to ensure all requested testing is completed at the event. If any administrative or other issues arise regarding staffing, equipment malfunctions, training questions, or clinical questions, the EOA will be able to communicate with staff from the local health system or other local entity to resolve any issues onsite. The State of California would be fully and completely responsible for the acts and/or omissions of its own personnel (including the acts and/or omissions of any third party contractors and subcontractors and their employees) providing the services contemplated by this hybrid~~



~~model. OSHS would assume no risk or liability for any work performed by non-OSHS staff, or any bodily injury or illness of any non-OSHS staff.~~

~~Dependent upon need, OSHS can manage the post event operations or turn those over to be managed locally.~~

#### **4.0 TRANSITION**

~~OSHS would advocate that while a service contract is being executed that implementation and process discussions are occurring in tandem in order to finalize all requirements to maximize go live time. Once all requirements as well as the contract is finalized, OSHS will be able to deliver services in at the specified testing locations by the State of California Event POC starting on May 4, 2020.~~

#### **5.0 QUALITY ASSURANCE**

OSHS maintains International Organization for Standardization (ISO) 9001:2015 certification to ensure best business practices for quality assurance. To achieve the highest quality at all levels of the programs, OSHS places the utmost importance on meeting customer expectations and meeting required acceptable performance levels. ~~We~~ **OSHS** integrates quality throughout the program to most effectively achieve desired results. OSHS's quality control and quality assurance procedures ensure continuous management of, and compliance with, customer performance requirements.

~~Our~~ **OSHS'** Continuous Improvement Management System (CIMS) applies to all regulatory standards referenced within contractual standards and to all processes for the delivery of services as defined by OSHS's customers. To ensure processes are effective, standardized documents will continue to outline the criteria and methods used by employees. The sequence and interaction of major processes in the CIMS are further defined in documentation. The CIMS processes will support the approved Quality Policy and objectives, which are implemented, reviewed, and maintained to regulate the effectiveness of the CIMS.

## EXHIBIT B, PAYMENT PROVISIONS

- A. Payment will be made in accordance with, and within the time specified in Government Code Chapter 4.5, commencing with Section 927.
- B. **The State agrees to pay for the costs of the labor, tools, materials, testing supplies, and travel expenses incurred by OSHS in the set-up, execution, and relocation, if any, of testing events at the** rates are set forth in the tables below.

California COVID-19 Testing In-Facility Option		
A. Description	Price	
Sites	86	
Workdays/Month	20	
Maximum Tests, per Team, per Day	132	
Total Tests, per Month (Maximum capacity)	211,200	
Cost per Kit & Laboratory Test	\$106.14	<i>Estimated Pass-through Cost (Trending actual)</i>
Claims Processing, per Claim	\$3.34	<i>Estimated Pass-through Cost</i>
<b>B. <u>Location: In-Facility</u></b>		
Team Cost - 1 Team, per Site, per Day	\$3,700	
Each Additional Team, per Site, per Day	\$3,400	
One-time Costs, per Site	\$764	<i>Estimated Pass-through Cost</i>
ODC, PPE, Shipping, per Team, per Day	\$530	<i>Estimated Pass-through Cost (Trending actual)</i>
Technology Access Fee, per Test	\$1.00	
<b>C. <u>Add- on items</u></b>		
Security Guard, per Team, per Day	\$936	
Interpreter Services, per Team, per Day	\$702	
Program Management, per Team, per Day	\$92	
Call-center for non-internet patient handling, per Team, per Day	\$625	
Signage, one-time per Site	\$531	<i>Estimated Pass-through Cost</i>
California COVID-19 Testing - Amended Items		
Description	Price	
D. Drive Thru Testing, 1 Lane, Per Week	\$4,082.42	<i>Estimated Pass-through Cost</i>

Drive Thru Testing, 2 Lanes, Per Week	\$5,447.66	<i>Estimated Pass-through Cost</i>
E. Each additional Team, per Site	\$1,276	
Rate for relocation:		
Optum deems relocation as simply the setup of a new site	See Exhibit B, section (b)	
F. Price to prepare up to 30 Test Kits for off-site collection by Hosting County personnel, per Site	\$80	
Price to prepare in excess of 30 kits, per Kit	\$5	
Positive Results Outreach, per Test	\$40	
Cost per Kit & Laboratory Test	See Exhibit B, section (b)	
Claims Processing	See Exhibit B, section (b)	
Technology Access Fee, per Test	See Exhibit B, section (b)	

A.	The cost of the kit and laboratory test is provided by the laboratory in order to facilitate test collections
	This cost is commensurate to Medicare reimbursement and increased from \$53 to \$100 per test as of 4/14/2020
	<a href="https://www.cms.gov/newsroom/press-releases/cms-increases-medicare-payment-high-production-coronavirus-lab-tests-0">https://www.cms.gov/newsroom/press-releases/cms-increases-medicare-payment-high-production-coronavirus-lab-tests-0</a>
B.	ODC, PPE, Shipping - Other Direct Costs, Personal Protective Equipment, and Shipping expenses.
	These are consumable supplies necessary to supplement the testing kits supplied by the laboratory in order to safely operate a testing site for specimen collection
	These items are treated as estimated pass through costs due to the fact that they are currently behaving like commodities, with frequent market-based price fluctuations
	Actual trending costs are approx. \$530 per Team, per Day (Original estimate of \$195)
C.	Interpreter services were previously priced with the assumption of use at 30%, then 50% of locations - The updated value represents the daily rate when Interpreter services are deployed
D.	Incremental costs to support Drive-Thru Testing lanes to include: tents, generators, portable toilets, etc.
	All other required cost elements required for service delivery already exist within Exhibit B
E.	The one-time, incremental cost to recruit, train, credential and staff each additional team per site in excess of the standard 1 team
F.	Optum will prepare the required test kits and laboratory requisition forms for test collections performed off-site by Hosting County personnel

### **Assumptions:**

- **The State or Hosting County will furnish a roster with the required demographic information before off-site testing can be initiated.**
- **The State or Hosting County will supply anything outside of the Kit, Lab Requisition in order to properly collect the off-site specimens.**
- **The State or Hosting County will register the individuals being tested offsite into LHI.Care.**

### **Assumptions included within this Pricing Proposal**

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- Testing performed statewide @ ~~8086~~ locations (# of locations may vary +/- **the State reserves the right to expand the number of locations based on need at the same rate as set forth in this Exhibit in accordance with the terms in the Agreement**)
  - Testing performed 20 days per month
  - A maximum of 132 tests performed within a 12-hour day, 1 station; 264 for 2 stations
  - Facilities within which to conduct the testing are provided by the State **Event POC of each Hosting County**
  - ODC, PPE, Shipping are pass through costs without mark-up
  - Lab Kits & Testing is via Quest and is pass through cost as of 4/15/2020 (without mark-up). Lab Kits and Testing pass through cost includes insurance claims processing through a 3rd party.
  - A Spanish speaking medical interpreter is included @ **50%** of the locations
  - One Security personnel will be provided per team by the Contractor. Contractor shall also provide the Staffing, supplies & PPE to perform test collections. "Staffing" as defined herein shall have administrative and clinical background, preferably with Registered Nurse (RN) degree but can also be Licensed **Vocational Nurses (LVN)**, or Nurse Practitioners.
  - Any in-state travel for support in rural areas would be cost reimbursable, if necessary.
- C. It is mutually agreed that if the State 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 the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- D. Invoices: Contractor shall submit itemized invoices to the State contact person in the designated manner via electronic and/or mail delivery **on a monthly basis**. Invoices shall include the following:
- a) State Agency Name
  - b) Contract Number
  - c) Order Number
  - d) Billing Code
  - e) Description of services and quantities
  - f) Event location, date and times
  - g) Pricing option/information
  - h) Pass through costs (pre-approved), as applicable, plus general and administrative expenses, are without mark-up

- E. The State contact person will verify and approve, or disapprove, the invoiced items. If the State does not approve the invoiced items, the invoice will be disputed and returned to the Contractor for correction. The Contractor shall work with the State to provide a billing system that meets the State's needs.
- F. Pass through costs (if any, such as 3<sup>rd</sup>-party tests/service/shipping vendors, materials, etc.) if permitted in the Agreement must be pre-approved by the State and billed without mark-up.
- G. Payment for services performed under this Agreement will be made upon satisfactory completion of services rendered. The Contractor shall invoice the State in arrears upon successful completion of services. Pursuant to the Prompt Payment Act, the State shall pay undisputed, properly submitted invoices within 45 calendar days of initial receipt.

GTC 04/2017

## EXHIBIT C

### GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees; **and the Hosting County, its officers, agents and employees** from any and all third party claims and losses accruing or resulting from any negligent or wrongful act, error or omission of Contractor in connection with Contractor's performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor's negligent or wrongful act, error or omission in the performance of this Agreement. Notwithstanding the foregoing, Contractor will have no obligation under this Section 5 or otherwise if the claim or loss results from the State's failure to perform its obligations under this Agreement. To the extent that Contractor is only partially responsible for a third party's claims or losses, Contractor's obligation to indemnify, defend and hold harmless the State **and the Hosting County** shall be reduced to the extent of Contractor's responsibility.
6. LIMITATION OF LIABILITY: EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL DAMAGES OR SIMILAR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY SOW HEREUNDER, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE).

7. DISCLAIMER OF WARRANTY. THE PARTIES ACKNOWLEDGE THAT THE COVID-19 TEST KITS TO BE USED IN CONNECTION WITH THIS AGREEMENT ARE FOR SCREENING PURPOSES ONLY AND MAY NOT IN ALL CASES PROVIDE A DEFINITIVE RESULT. AS WITH ALL SCREENING TESTS, IN A CERTAIN NUMBER OF CASES THERE CAN BE INCIDENCES OF FALSE-POSITIVE AND FALSE-NEGATIVE RESULTS. THE PARTIES FURTHER ACKNOWLEDGE THAT THE COVID-19 TEST KITS PROVIDED UNDER THIS AGREEMENT MAY NOT BE EFFECTIVE FOR ANY MUTATIONS OF COVID-19.

EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7 AND TO THE EXTENT PROHIBITED BY APPLICABLE LAW, THE SERVICES AND PRODUCTS PROVIDED BY CONTRACTOR UNDER THIS AGREEMENT ARE PROVIDED STRICTLY “AS-IS,” “AS-AVAILABLE,” AND “WITH ALL FAULTS,” AND CONTRACTOR MAKES NO ADDITIONAL WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY AS TO THE SERVICES, PRODUCTS, OR ANY OTHER MATTER WHATSOEVER. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE, OR A PARTICULAR OR BUSINESS RESULT, TITLE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, CONTRACTOR MAKES NO WARRANTY THAT THE PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT WILL: (I) MEET THE STATE’S REQUIREMENTS OR INTENDED PURPOSES OR USES; (II) PREVENT THE SPREAD OR INCURRENCE OF ANY ILLNESS, VIRUS, OR BACTERIA; (III) BE FREE FROM DEFECTS, WHETHER PATENT OR LATENT, IN DESIGN, MATERIALS OR WORKMANSHIP.

7. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

8. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any future payments as a result of Contractor’s material breach of the Agreement upon providing 10 calendar days written notice to Contractor; provided however, that such written notice will contain a reasonable description of the reason(s) for termination and Contractor will have the right to cure such default within such notice period, unless the State agrees in writing to a longer cure period. In the event of termination for cause, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

9. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

10. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage 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 the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

11. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

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

12. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

13. TIMELINESS: Time is of the essence in this Agreement.



12. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

13. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California. References to any statute, rule, or regulation are to the statute, rule, executive order or regulation as amended, modified, supplemented, or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under said statutes); provided, however, that, for purposes of any representations and warranties contained in this Agreement that are made as of a specific date or dates, references to any statute, rule, executive order or regulation shall be deemed to refer to such statute, rule, executive order or regulation as of such date.

14. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

15. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

16. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

17. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

18. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

19. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

20. FORCE MAJEURE:

Contractor shall not be in breach of this Agreement nor liable for delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure results from events, circumstances, or causes beyond Contractor's reasonable control, including but not limited to: pandemic; epidemic; any global, national, or local public health emergency or disease outbreak (including, without limitation, COVID-19 (a/k/a the 2019 Novel Coronavirus) or any similar disease(s)); strike, lock-out or other industrial dispute; failure of a utility service or transport or telecommunications network; act of God; fires, floods, storms, earthquakes and explosions; war, riot, or other civil disturbance; malicious damage; compliance with any law or governmental order, rule, regulation, direction or act of any government in its sovereign capacity including quarantine and travel and shipping restrictions; default by suppliers, vendors, or sub-contractors; or difficulties in obtaining necessary labor, materials, manufacturing facilities, or transportation, regardless of (i) whether or not any of the foregoing were reasonably foreseeable or (ii) Contractor's performance becoming impossible or impractical such that this Section 20 will take effect in either scenario (each, a "Force Majeure Event"). Upon the occurrence of any event of Force Majeure, Contractor shall notify the State in writing of such event as soon as reasonably practicable but no later than five (5) Business Days following Contractor's attainment of actual knowledge that the event of Force Majeure will result in Contractor's non-fulfillment of its obligations hereunder and shall specify in reasonable detail the facts constituting such event of Force Majeure.

## **EXHIBIT E**

### **ADDITIONAL LEGAL TERMS REQUIRED FOR FEMA REIMBURSEMENT**

#### **A. Early Termination**

1. Termination for Cause language is already incorporated in Exhibit C, #7. In addition to any other provision of this Agreement, the State may terminate this Agreement or cancel a portion of the services for any reason with fifteen (15) days' written notice.

#### **B. Remedies**

1. In the event of a breach by the Contractor of any term or provision of this Agreement, the State shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

#### **C. Compliance with the Contract Work Hours and Safety Standards Act (where applicable)**

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph C.1 of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph C.1 of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard

workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph C.1 of this section.

3. Withholding for unpaid wages and liquidated damages. The Governor's Office of Emergency Services shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C.2 of this section.

4. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph C.1 through C.4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs C.1 through C.4 of this section.

#### **D. Clean Air Act**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the State **California Air Resources Board**, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **E. Federal Water Pollution Control Act**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

2. The Contractor agrees to report each violation to the State **Water Resources Control Board** and understands and agrees that the State **Water Resources Control Board** will, in turn, report each violation as required to assure

notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **F. Debarment and Suspension Clause**

1. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by the State. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **G. Byrd Anti- Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

1. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies 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, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the state.

#### **APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING**

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on

behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

CONTRACTOR

By \_\_\_\_\_  
Date \_\_\_\_\_

#### **H. Procurement of Recovered Materials**

1. In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
2. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>
3. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

#### **I. Access to Records**

1. The following access to records requirements apply to this Agreement:
  - i. The Contractor agrees to provide the state, 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 Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
  - ii. 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.
  - iii. The Contractor agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
  - iv. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

#### **J. Changes and Modifications**

**Any cost of a change, modification, change order, or constructive change to the Agreement must be allowable and allocable within the scope of this Agreement, and reasonable for the completion of project scope. Changes can be made by either Party to alter the method, price, or schedule of the work without breaching the Agreement if both Parties approve in writing.**

#### **K. Department of Homeland Security Seal, Logo, Flags**

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



#### **K. Compliance with Federal Law, Regulations, and Executive Orders**

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 law, regulations, executive orders, FEMA policies, procedures, and directives.

#### **L. No Obligation by Federal Government**

The Federal Government is not a party to this Agreement 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 Agreement.

#### **M. Program Fraud and False or Fraudulent Statements or Related Acts**

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