

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

0511 GOVOPS-C2034

PURCHASING AUTHORITY NUMBER (If Applicable)

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

CONTRACTING AGENCY NAME

California Government Operation Agency

CONTRACTOR NAME

Logistics Health Inc.

2. The term of this Agreement is:

START DATE

2/24/2021

THROUGH END DATE

8/31/2021

3. The maximum amount of this Agreement is:

\$176,000,000.00

One Hundred Seventy Six 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	2
Exhibit A	Attachment I	7
Exhibit B	Budget Detail & Provisions	3
+ - Exhibit B	Attachment I	6
+ - Exhibit C	General Terms and Conditions	6
+ - Exhibit D	Special Terms and Conditions	19

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

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

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

**CONTRACTOR**

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

Logistics Health Inc.

CONTRACTOR BUSINESS ADDRESS

328 Front Street South

CITY

La Crosse

STATE

WI

ZIP

54601

PRINTED NAME OF PERSON SIGNING

Paul Miller

TITLE

CFO

CONTRACTOR AUTHORIZED SIGNATURE

Paul Miller

DATE SIGNED

3/9/2021

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

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0511 GOVOPS-C2034

PURCHASING AUTHORITY NUMBER (If Applicable)

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Government Operation Agency

CONTRACTING AGENCY ADDRESS

915 Capital Mall, Suite 200

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Justyn Howard

TITLE

Deputy Secretary, Fiscal Policy and Administration

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

3/09/2021

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

Emergency Contract in response to the Governor's Proclamation of a State of Emergency related to the COVID-19 pandemic.

## **EXHIBIT A**

### **PURPOSE AND SCOPE OF WORK**

#### **PURPOSE**

California Government Operations Agency (GovOps) is contracting with Logistics Health Inc. (Contractor), independently a "Party" and collectively "Parties," for COVID-19 Vaccine services related to the efficient and effective distribution and administration of the COVID-19 vaccine. This contract is necessary in order to respond to and mitigate the devastating effect of the COVID-19 pandemic on California, its economy, and residents. This Agreement is entered-into by the Parties pursuant to paragraph 2 of Governor Gavin Newsom's Proclamation of a State of Emergency dated March 4, 2020 and is also consistent with Public Contract Code sections 1102 and 10340(b)(1).

#### **SCOPE OF WORK**

##### **1. Contractor's Roles and Responsibilities:**

- A. Contractor agrees to provide vaccine administration as directed by the State's Third-Party Administrator (TPA), Blue Shield of California, at various locations throughout California. The specific locations shall be agreed upon by Contractor, GovOps and the TPA.
- B. Contractor shall enter into a separate agreement with the State's TPA for the deployment of vaccination teams as needed and directed by the TPA.
- C. The Exhibit A Statement of Work in the TPA agreement OPT-TPA-CAVAX-001 between Blue Shield of California and Contractor, attached to this Exhibit A as Attachment 1, is hereby incorporated into this Exhibit A.
- D. This agreement establishes the sole compensation GovOps agrees to pay Contractor, which shall be at the rates set forth in Exhibit B. Rates are for new vaccination sites as approved by GovOps, which will be either 8-hour or 12-hour or 24-hour, and 5-days or 7-days a week. Contractor shall not bill GovOps for any goods or services already covered in Contractor's contract(s) with the California Department of Public Health and/or reimbursed by third parties.

##### **2. State's Roles and Responsibilities:**

The State shall:

- A. Designate a point person to whom all communication may be addressed.
- B. Identify and provide relevant state information and data for use by the Contractor in the performance of its duties hereunder.

##### **3. Time/Period of Performance:**

The term of this Agreement is March 1, 2021, through September 30, 2021. The State, at its sole discretion, may exercise its option to execute an Agreement extension for up to one (1) month. Any delivery of goods or performance of services by the Contractor that commenced prior to the start date shall be at no cost to the State.

**4. Reporting & Ways of Working:**

During the term of this contract, the Contractor shall report to the project representatives listed below. Contractor shall also engage collaboratively with other entities and individuals, as designated by GovOps, who are involved with the operations and distribution of the COVID-19 vaccine throughout the State of California.

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

Government Operations Agency

Logistics Health Inc.

Name: Justyn Howard

Name: Derek de la Noche

Phone: (916) 449-5452

Phone: (703) 712-5661

Email: [Justyn.Howard@govops.ca.gov](mailto:Justyn.Howard@govops.ca.gov)

Email: [ddnoche@optum.com](mailto:ddnoche@optum.com)

All inquiries related to this agreement shall be directed to:

Government Operations Agency

Logistics Health Inc.

Name: Michael Miyao

Name: Derek de la Noche

Phone: (916) 651-9011

Phone: (703) 712-5661

Email: [Michael.Miyao@govops.ca.gov](mailto:Michael.Miyao@govops.ca.gov)

Email: [ddnoche@optum.com](mailto:ddnoche@optum.com)

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



## Exhibit A

### STATEMENT OF WORK

#### 1. Participation Criteria/Qualifications

Vaccine Provider certifies, represents and warrants that it has and shall at all times during the Term of the Agreement maintain each of the following:

- 1.1. Vaccine Provider has completed and will remain current on all training required by the federal and State government related to the administration of COVID-19 vaccine; and
- 1.2. Vaccine Provider has and will maintain necessary licenses, certifications, registrations, and permits to perform the Services, including without limitation enrollment and ongoing compliance with the terms of enrollment with Centers for Medicare & Medicaid Services (CMS) for purposes of administering COVID-19 vaccinations; and
- 1.3. Vaccine Provider has and will maintain active, unqualified and unrestricted registration and participation as a COVID-19 vaccine provider with the CDC and the State (MyCAVax); and
- 1.4. Vaccine Provider shall have and will maintain the capability to provide COVID-19 vaccine administration services to any resident of California who is eligible for vaccination and for whom vaccination is not contraindicated, regardless of ability to pay, health plan or insurance status, or type of coverage (if any), and regardless of whether there is any previously existing patient or member relationship with the Vaccine Provider; and
- 1.5. Vaccine Provider shall have the ability to establish and will maintain an electronic interface to the State Immunization Registry and MyTurn.ca.gov (or other appropriate electronic health record interface as approved by TPA in conformance with TPA's obligations to Agency). For purposes of clarity, the parties acknowledge and agree that Vaccine Providers with an industry standard and certified Electronic Medical Record system (i.e., EPIC or Cerner), may leverage a standard interface defined by TPA and Agency to connect from MyTurn to Scheduling and Vaccine Clinic Management with an electronic interface to the State Immunization Registry; and
- 1.6. To the extent Vaccine Provider seeks reimbursement of COVID-19 vaccine administration fees, Vaccine Provider shall have and maintain the ability to submit claims for reimbursement of such fees to, and accept payment from, all applicable government health care programs (such as Medi-Cal, Medicare, and HRSA) and all health plan and insurance coverages that provide payment and/or coverage for COVID-19 vaccine administration fees for vaccine recipients, as applicable; and .
- 1.7. Vaccine Provider shall have and maintain willingness to participate in local community efforts in order to facilitate the State's ability to meet equity goals established by Agency in connection with the Program; and
- 1.8. Vaccine Provider shall have and will maintain the following insurance or similar arrangement of self-insurance:
  - A. Vaccine Provider shall maintain, or cause to be maintained on his/her/its behalf, professional liability (malpractice) insurance and general liability insurance coverage or a similar arrangement of self-insurance in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate. If Vaccine Provider maintains a claims made malpractice insurance policy, then Vaccine Provider shall maintain such policy in effect for at least five (5) years following the expiration or termination for any reason of this Agreement, or purchase extended reporting coverage (tail insurance) sufficient to ensure that insurance coverage in the amount set forth in this Exhibit A Section 1.8 is maintained for claims which arise from services provided by Vaccine Provider during the term of this Agreement; and
  - B. Vaccine Provider shall maintain Workers' Compensation insurance covering all employees of Vaccine Provider; and
  - C. If Vaccine Provider provides mobile services, Vaccine Provider shall maintain coverage at least as broad as the ISO Business Auto Coverage form covering symbol, 1 "any auto". The limit shall not be less than \$1,000,000 for bodily injury and property damage. In the event there is no Commercial Auto Policy, coverage for use of all non-owned and hired auto's (symbols 8 & 9) can be met by endorsing the Commercial

General Liability Insurance policy with Hired & Non-owned Auto liability with a limit of \$1,000,000 for Bodily Injury or Property Damage; and

- D. Vaccine Provider shall notify TPA and provide evidence to TPA at the time of any material amendment, change or modification to such insurance coverage or similar arrangement of self-insurance, and at any other time on reasonable request by TPA during the term of this Agreement.

**1.9** Vaccine Provider shall have and will maintain disaster recovery and business continuity plans that meet all State and federal requirements applicable to the administration, storage and safe handling of COVID-19 vaccine in Vaccine Provider's possession, that assure Vaccine Provider will have and maintain the ability to administer COVID-19 vaccines pursuant to the terms of this SOW, that minimize the risk of discontinuity and disruption to the Program, and that avoid waste and spoilage of COVID-19 vaccine; and

**1.10** Vaccine Provider acknowledges and agrees it shall comply with the State and federal certifications set forth in Exhibit C attached hereto and by reference incorporated herein.

## **2. Services/Scope**

Vaccine Provider shall provide the following services (the "Services"):

- 2.1.** Vaccine Provider shall administer COVID-19 vaccine in compliance with all requirements and recommendations of CDC and CDC's Advisory Committee on Immunization Practices (ACIP), including without limitation *CDC's Guidance for Immunization Services During the COVID-19 Pandemic* for safe delivery of vaccines and in facilities that are physically accessible to individuals with disabilities in accordance with ADA standards;
- 2.2.** Vaccine Provider shall comply with CDC requirements for COVID-19 vaccine management, storage, and handling, including without limitation storage and handling COVID-19 vaccine under proper conditions, such as (a) maintaining and monitoring vaccine storage unit temperatures, cold chain conditions and chain of custody at all times in accordance with the manufacturer's package insert and CDC guidance in *CDC's Vaccine Storage and Handling Toolkit* as it may be updated from time to time, (b) monitoring and complying with COVID-19 vaccine expiration dates; (c) complying with each relevant State, local or territorial jurisdiction's immunization program guidance for dealing with temperature excursions.
- 2.3.** Vaccine Provider shall administer COVID-19 vaccines to vaccine recipients without regard to, or consideration of the vaccine recipient's (i) ability to pay COVID-19 vaccine administration fees or (ii) insurance coverage status or type of coverage (if any) or (iii) existing patient, member, or other relationship with Vaccine Provider;
- 2.4.** Within no more than twenty-four (24) hours of administering a dose of COVID-19 vaccine and adjuvant (if applicable), Vaccine Provider shall record in the vaccine recipient's record, and shall report complete and accurate vaccine administration data required in the MyTurn reporting tool and other technology platforms as directed by TPA, Agency, and CDC (such as, for example, VaccineFinder and CAIR2 (or other appropriate electronic health record interface as permitted under Section 1.5 of this Exhibit A); and
- 2.5.** Vaccine Provider shall make available at its vaccination site or sites written materials that Agency prepares, prints, and delivers to Vaccine Provider; and
- 2.6** Vaccine Provider shall provide additional support as may be reasonably requested by TPA to assist TPA in the successful administration of the Program.
- 2.7** Without limiting the foregoing, Vaccine Provider will provide end-to-end COVID-19 vaccination administration and event management services; inclusive of healthcare professionals, logistics, and other associated activities needed to coordinate smaller and mass vaccination events. The Vaccine Provider will work in partnership and under the operational management of TPA in its capacity as the Third-Party Administrator of California's COVID-19 vaccination program. The Vaccine Provider will use a phased approach to address vaccination needs of the State, by expanding current Vaccine Provider managed testing sites and ramping up to support mass vaccinations at sites determined and directed by TPA in collaboration with county leadership. When fully deployed the Vaccine Provider will be capable of administering approximately one million vaccines per week across the State of California.

Specifically, the Vaccine Provider shall provide:



- Coordination and collaboration with the TPA on site selection, use of the designated technology (MyTurn), branding and communications
- Administration of all COVID-19 vaccination events at identified sites, as defined hereinafter and related activities
- Program management and clinical oversight including, dedicated program management, vaccine oversight including appropriate shipping and handling in accordance with CDC and manufacturer guidance, clinical training and emergency planning, ongoing clinical surveillance.

### 3.0 Tasks

#### 3.1 Implementation

3.2 The Vaccine Provider shall assign an Event Operations Coordinator (EOC) who will work with the Agency, California Department of Public Health (CDPH), California Local Health Jurisdictions (LHJs) and as directed by TPA in conformance with TPA's obligations to Agency to agree on an implementation approach and schedule in accordance with California's identified priorities and site availability.

3.2.1 Immediately after contract start, the Vaccine Provider shall:

- Initiate logistics and site planning with , LHJs, and the TPA
- Begin staffing all clinical and non-clinical staff and initiate training
- Assign program management, clinical oversight and all back-end operations
- Work with the TPA to initiate site registration and MyTurn training and access
- Establish command center personnel

3.2.2 Before vaccination begins, the Agency and/or TPA will provide and/or support the Vaccine Provider the following information:

- Support in streamlining site registration in MyTurn and MyCalVax or provide a registered provider who can receive vaccine allocations on the Vaccine Provider's behalf until the Vaccine Provider is fully registered.
- Confirmation that appropriate cold chain management and storage will be provided. and the LHJ will transport vaccine to the Vaccine Provider sites each day.
  - The Vaccine Provider is actively pursuing options for Provider-provided courier and cold-chain storage solutions and will keep the Agency and the TPA informed on availability.
- Confirmation of the site locations and the following information for new sites:
  - A site POC the Vaccine Provider can work with to evaluate and plan the site go live, communication plans, eligibility and ongoing planning.
  - Site location information (address, city, state, zip).
  - Hours and days of operation.
  - All facility use agreements or permits required before vaccines can begin at a state provided location.
  - Facility layouts or site walk through to confirm site has the adequate space for a successful vaccine event (space for registration and vaccine stations, space for cold chain storage, space for reconstitution, adequate social distancing, space for adverse event observation).
  - Confirmation on any optional additional roles that the Vaccine Provider will need to provide including: security, interpreters, or traffic flow monitors.
  - Site has power and internet connectivity; running water and bathrooms; AC/Heat as necessary.
  - Confirm that each site will only receive vaccine from one manufacturer to avoid medical risk.

3.2.3 After implementation requirements are confirmed, in six (6) business days the Vaccine Provider shall:

- Complete provider/site registration with MyTurn and MyCalVax
- Set up event in MyTurn Clinic and make online registration available for residents through the MyTurn site. This will be done by the State provider onboarding team ("MyTurn Team") until the Vaccine Provider is able to gain full system access and is fully trained or onboarded.)

- Supplies (PPE, signage, any cold-chain supplies determined, handouts, IT equipment, etc.) arrive on site the day before the event
- Go-Live

### 3.3 Vaccination Sites

3.3.1 Vaccination sites will be chosen in partnership with the TPA and County Local Health Departments.

3.3.2 If applicable, the Vaccine Provider shall bring forward possible vaccination event site locations through existing partnerships to evaluate with the TPA and County Local Health Departments.

3.3.3 All new vaccination sites should be confirmed with expected vaccine allocation six (6) business days prior to vaccination event go-live.

3.3.3.1 The Vaccine Provider shall work with the TPA, the LHJs and the Agency to develop a two to three-week forecast of expected sites and throughput to streamline the go-live process for each site

3.3.4 If requested by the TPA and in collaboration with the LHJs to co-mingle vaccination sites with existing Vaccine Provider managed testing sites, the Vaccine Provider shall evaluate the site layout, determine clinical feasibility, evaluate safety for staff and for CA residents in the co-located environment, and ensure two distinct workflows are used.

### 3.4 Vaccine Team

3.4.1 A single vaccine team can administer 210 vaccines per 8-hour day or 330 vaccines per 12-hour day.

3.4.2 A mass vaccination team (made up of 6 teams) can administer 1,260 vaccines per 8-hour day or 1,980 per 12-hour day.

3.4.3 Vaccine Provider staffing models can administer the Pfizer vaccine or the Moderna vaccine; however, each Vaccination Event Site will only have one brand of vaccine at a given time for clinical safety, patient safety and the differences in onsite cold-chain requirements. If a vaccine brand change at a given site is required, the TPA will give the Vaccine Provider 72-hours' notice to ensure the correct cold chain is on site and MyTurn scheduling can be updated. The TPA and MyTurn Team would be responsible for notifying patients with existing appointments for second doses if the vaccine type has changed.

3.4.4 Vaccine Provider Staffing models is subject to change as more information is learned on the ground or a new COVID-19 vaccine becomes available.

3.4.5 All clinicians handling and/or administering the vaccine will hold the appropriate licenses required by the State of California

3.4.6 Additional staff may be added if required by the TPA in collaboration with the Agency or if the volume dictates additional staff are needed. These roles may include security (daytime and overnight), interpreters, and traffic control monitors.

### 3.5 Additional Implementation considerations

3.5.1 The Vaccine Provider's Distributions Operations Center shall ensure any supplemental medical supplies, IT equipment, and administrative supplies are prepared, packaged, and shipped to the Vaccine Event sites, in appropriate quantities for the expected volume of traffic per site.

3.5.2 The Vaccine Provider shall provide CDC recommended Personal Protective Equipment (PPE) package for vaccinations includes face shield or goggles surgical mask, gloves, hand sanitizer, and disinfectant.

3.5.3 The Vaccine Provider shall provide required on-site cold chain management and shall comply with the CDC's *Vaccine Storage and Handling Toolkit* and manufacturer guidelines.

3.5.4 The Vaccine Provider will partner with the LHJs to leverage their secure cold-chain storage space for ongoing management and have thawed vaccine, all associated diluent that comes with the vaccine, and kits,



delivered and released to the Vaccine Provider's custody each day. The Vaccine Provider will collaborate with the LHJs to determine responsibility for picking up vaccine, diluents and kits, at the end of the day if there are unused vials. As directed by Agency, TPA will communicate vaccine, diluent and kit allocations to the LHJs for use by the Vaccine Provider on a weekly basis or other communication schedule as TPA may be directed by Agency. The Vaccine Provider is currently modeling additional capabilities / modalities to offer and support the LHJs and the TPA as vaccination sites are expected to scale rapidly. Once the modeling is complete, the Vaccine Provider will inform and offer the LHJs and the TPA these new capabilities to implement, including:

- 3.5.4.1 Vaccine Provider provided courier services to pick up and drop off unused vaccine, diluents, and kits, each day while leveraging LHJ provided cold-chain storage and overnight management. In this scenario, the TPA will communicate vaccine allocations to the LHJ for use by the Vaccine Provider on a weekly basis or other communication schedule as TPA may be directed by Agency.
- 3.5.4.2 Vaccine Provider provided cold-chain storage solution to store and manage vaccine on site or at a Vaccine Provider provided facility with the required overnight security and 24/7. In this scenario, the TPA will communicate vaccine allocations directly to the Vaccine Provider on a weekly basis or other communication schedule as TPA may be directed by Agency. Note: there are nationwide supply restrictions on ultra-cold chain freezers and dry ice, which impacts the Vaccine Provider's ability to store and maintain the Pfizer vaccine.

3.5.5 Ahead of the event, the Vaccine Provider shall ensure all group event staff undergo training that will be conducted within an online training module. In compliance with CDC guidance, the training will include processes for vaccine storage and handling, vaccine administration, vaccine patient communication, HIPAA, rules for wearing PPE, donning and doffing PPE, handwashing hygiene and infection control measures, and the "soft skills" required to work within this unique vaccine environment.

3.5.6 The Vaccine Provider shall also ensure staff complete a virtual competency validation of the require skills necessary to successfully perform services on a COVID-19 vaccine event, including cultural sensitivity training for all personnel

3.5.7 All required clinical staff and data entry staff shall participate in TPA provided MyTurn training.

### **3.6 Pre-Registration and Scheduling**

3.6.1 The Vaccine Provider strongly encourages pre-registration be used with individual appointment times, as it is the best way to manage patient flow at the site. Should the Agency or the TPA want to use a full walk-up model or a blended model (some pre-registered and some walk-up), expected vaccine administration throughputs would be affected.

3.6.2 After the Vaccine Provider registers a site in MyTurn, residents will use MyTurn to register for their vaccine appointment online. All technical requirements for the registration and scheduling (including call center) and IT support is managed by the MyTurn Team under the TPA's oversight.

3.6.3 The TPA and MyTurn Team will be responsible for any notifications about site closures, delays or cancelled appointments.

### **3.7 Signage & Communications**

3.7.1 Vaccine Provider shall make available at its vaccination site or sites written materials that Agency prepares, prints, and delivers to Vaccine Provider

3.7.2 The Vaccine Provider shall provide outdoor and interior signage for each site in accordance to communication guidelines and branding provided by the TPA (yard signs, banners, directional signage, request to adhere to clinical protocols, etc.).

3.7.3 At each event, the Vaccine Provider will distribute appropriate documents to residents including Vaccine Information Statements (VIS) and information about V-SAFE (the CDC managed post-vaccine health tracker) for reporting adverse events in both English and Spanish.

### **3.8 Vaccination Event**

3.8.1 Prior to the first day of opening the vent, the Vaccine Provider shall initiate and complete all set up on the day prior to the event, as long as the vaccine site is secure. Thereafter, set up will be completed the day before or at least 1 hour before the event.

3.8.2 Before and After each resident, and throughout the day, the clinical staff and all vaccine team staff, will follow proper infection control requirements in accordance with CDC.

3.8.3 If needed during the 15-minute adverse event monitoring period, Vaccine Provider staff will be able to recognize the signs and symptoms of anaphylaxis. The clinical staff on location are available to support, stabilize the resident, call EMS, and inject with an EpiPen, as appropriate.

3.8.4 Before leaving the event, the Vaccine Provider shall provide information to residents on how to access and use V-SAFE, the CDC phone application that allows patient to track and report any adverse events to their provider that may occur after they go home.

3.8.5 If any serious or select adverse events occur on-site or a vaccine administration error occurs, the Vaccine Provider shall complete and submit reports to CDC's Vaccine Adverse Event Reporting System (VAERS).

3.8.6 The Vaccine Provider shall comply with all local, state, and Federal laws for disposing of medical waste and biohazardous materials.

### **3.9 Program Management and Clinical Oversight**

3.9.1 The Vaccine Provider shall assign a Program Manager (PM) to oversee all vaccine delivery for the Agency and the TPA.

3.9.2 The PM will be the main point of contact for the Agency and the TPA and shall provide oversight and direction on all program activities to ensure compliance with all contract and performance requirements defined in the contract.

3.9.3 The PM shall provide timely response and resolution to issues or concerns brought by the Agency or TPA.

3.9.4 The Vaccine Provider shall have a clinical leadership team available to provide ongoing clinical oversight for the program

3.9.5 The clinical leadership team shall review ongoing compliance to standard operating procedures with daily meetings, ongoing training, and virtual check-ins/tours of the sites

3.9.6 The clinical leadership team will perform on-the-ground quality audits the first two weeks with any new personnel, and periodically thereafter.

3.9.7 The Vaccine Provider shall use an established COVID-19 Command Center that provides a centralized resource for identifying event risks, responding to inquiries, and synthesizing options to determine the best course of action

3.9.8 The command center is available 24/7 while events are operational to handle questions from the staff on the ground during vaccination events, to ensure rapid response and issue resolution for seamless event execution.

## **4.0 Additional Capabilities for Consideration**

### **4.1 Drive-Through Events**



Weather permitting and with the right infrastructure for cold, snow and rain, drive through events can be staffed to give vaccinations in partnership with the Agency or county in staffing traffic control, on site EMS, and enough space for observation after the vaccination. If the Agency is interested in using a drive through event, and TPA concurs with the need, Vaccine Provider can provide additional information and pricing to the Agency and TPA.

#### **4.2 Mobile Vaccine Administration Module**

Mobile Vaccine Administration services are easily deployable and re-deployable fully enclosed and self-contained modules. The units are powered with generator or RV style hook-ups with all clinical considerations including infection control and prevention. The mobile modules are durable for all weather and environments with HVAC systems design for comfort and hygiene, mirroring the design of systems used in hospital operating rooms. If TPA is interested in using a mobile vaccine administration services, Vaccine Provider can provide additional information and pricing to the Agency and TPA.

#### **4.3 Priority Identification Vaccine Operating Tool (PIVOT)**

PIVOT is an interactive tool to assist Jurisdictions with their vaccine planning and administration. PIVOT can identify and inform vaccine site selection (e.g., vulnerable communities, potential vaccine sites such as schools and travel distance to vaccine sites from key locations). PIVOT also provides daily reporting of anticipated vaccine administration to actual. PIVOT's daily reports provide critical insight into the effectiveness of vaccination sites and the potential need for community engagement as well as informs future vaccine site selection. If the Agency, upon agreement with the TPA, is interested in leveraging the PIVOT tool and consultative services, Vaccine Provider can provide additional information and pricing to the Agency and TPA.

#### **4.4 Vaccine Outreach – Implementing Community Engagement (VOICE)**

Vaccine Provider's Vaccine Outreach – Implementing Community Engagement (VOICE) solution is a critical differentiating tool created to support states, counties, and other jurisdictions with overall vaccine promotion and with addressing COVID-19 vaccine hesitancy. VOICE is a modular and customizable tool designed to address vaccine hesitancy. VOICE may be used proactively in tangent with initial phases of vaccine administration or may be used on a more focused basis to increase uptake in areas experiencing low vaccine uptake. VOICE is evidenced based and builds on OptumServe's established Learning and Communication capability. If the Agency in collaboration with TPA is interested in using VOICE, Vaccine Provider can provide additional information and pricing to the Agency and TPA.

### **3. Term**

Vaccine Provider shall begin providing the Services under this SOW on the date specified by TPA upon two (2) business days' prior written notice to Provider, which notice may be issued by TPA at any time from and after the date Provider completes onboarding processes for MyTurn. Unless otherwise terminated earlier pursuant to the terms of the Agreement, this SOW will terminate on completion of all Services.

### **4. Points of Contact**

#### **4.1. The TPA point of contact for this SOW is:**

Name: Helene Epler  
Phone: (818) 228-2532  
E-mail Address: CovidVaccineNetwork@blueshieldca.com

#### **4.2. The Vaccine Provider point of contact for this SOW is:**

Name: LaShanda Cobbs  
Phone: (571) 236-8752XXXX  
E-mail Address: lacobbs@Logisticshealth.com

## **EXHIBIT B**

### **BUDGET DETAIL AND PAYMENT 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 consistent with the deployment of teams and rates outlined in Exhibit B Attachment I.
- C. Each invoice submitted must reference the Contract Number and shall be forwarded to:

Government Operations Agency  
Attn: Michael Miyao  
915 Capitol Mall, Suite 200  
Sacramento, California 95814

#### 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 activities are performed and the fees are in accordance with Exhibit B Attachment I.
- 2. Invoices must be submitted to GovOps either electronically or in hard copies.
- 3. Identify the billing and/or performance period covered by the invoice.
- 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 GovOps.

- E. The maximum amount payable under this Agreement shall not exceed:  
**\$176,000,000.00.**

#### 2. Budget Contingency Clause

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.

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.

### 3. California Prompt Payment Clause

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

### 4. Timely Submission of Final Invoice

- F. A final undisputed invoice that is clearly marked "Final Invoice" shall be submitted for payment no more than thirty (30) calendar days following the expiration or termination date of this Agreement.
- G. If GovOps disputes the Final Invoice or any item in the Final Invoice, GovOps shall provide written notice to the Contractor describing the reason or reason GovOps disputes the Final Invoice, and the Contractor shall be required to submit a corrected Final Invoice to GovOps no later than ten (10) calendar days after the date the Contractor received GovOps written notice.
- H. If the Contractor fails to submit a corrected Final Invoice within the time required, or if the Contractor's corrected Final Invoice fails to correct the disputed item, GovOps shall have the right to elect to deny payment of the disputed item and pay only the undisputed amounts under the Final Invoice.
- I. GovOps may, at its discretion, choose not to honor any Final Invoice submitted after the deadline specified in Exhibit B, Budget Detail and Payment Provisions Section 4.A above if the Contractor fails to obtain prior written GovOps approval of an alternate Final Invoice submission deadline.

### 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 GovOps 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 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.

EXHIBIT B  
ATTACHMENT I

# State of California

## Government Operations Agency

### COVID-19 Vaccine Support

## 1. Pricing and Price Assumptions

### 1.1. Pricing Tables

#### 1.1.1. 8 Hour Event Days x 5 Days a Week

Pricing ROM - COVID-19 Vaccine Administration	8x5 Single	8x5 Mass
Sites	1.0	1.0
Teams per Site	1.0	6.0
Workdays/Month	20.0	20.0
Maximum Vaccines (Per Team, Per Day)	210	210
Maximum Vaccines (Per Day)	210	1,260
Total Vaccines / Month	4,200	25,200
Period of Performance (Months)	6.0	6.0

#### Location: In-Facility - One Time Costs

One-time Costs Supplies/Equipment/Signage (per Site)	\$7,177	\$23,681	Estimated pass-through cost
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#### Location: In-Facility - Recurring Costs

Total Onsite Personnel Cost (per Team/per Site/per Day)	\$7,626	\$5,564	
Consumable Supplies, PPE, Shipping (per Team/per Site/per Day)	\$827	\$982	Estimated pass-through cost
Program Management (per Team/per Site/per Day)	\$2,459	\$977	

#### One Time Costs

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	Estimated pass-through cost
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#### MONTHLY SUMMARY - Recurring Costs

Total Personnel Cost (per Month)	\$152,528	\$667,655	
Total Consumable Supplies, PPE, Shipping (per Month)	\$16,550	\$117,815	Estimated pass-through cost
Total Program Management (per Month)	\$49,170	\$117,279	

<b>Total Recurring Cost / Month</b>	<b>\$225,425</b>	<b>\$926,432</b>
<b>Average Recurring Cost / Vaccine</b>	<b>\$53.67</b>	<b>\$36.76</b>

#### Period of Performance 6 MONTH SUMMARY - Recurring Costs

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	Estimated pass-through cost
Total Personnel Cost	\$915,168	\$4,005,932	
Total Consumable Supplies, PPE, Shipping	\$99,298	\$706,892	Estimated pass-through cost
Total Program Management	\$295,021	\$703,677	

<b>Total Fees</b>	<b>\$1,316,663</b>	<b>\$5,440,183</b>
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#### Optional Services

Security - Overnight (Per Resource/per shift)	\$918	\$918
Interpreter (Per Resource/Per Shift)	\$613	\$613
Traffic Control (Per Resource/Per Shift)	\$612	\$612
Courier (Per Shift)	\$1,341	\$1,341
Transition Out Support (Per Resource/Per Month)	\$25,000	\$25,000



#### Use and Disclosure of Data

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate this proposal. However, if a contract is awarded to this offeror as a result of or in connection with the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in these data if they are obtained from another source without restriction. This proposal contains proprietary LHI information.

## 1.1.2. 12 Hour Event Days x 7 Days a Week

<b>Pricing ROM - COVID-19 Vaccine Administration</b>	<b>12x7 Single</b>	<b>12x7 Mass</b>
Sites	1.0	1.0
Teams per Site	1.0	6.0
Workdays/Month	30.0	30.0
Maximum Vaccines (Per Team, Per Day)	330	330
Maximum Vaccines (Per Day)	330	1,980
Total Vaccines / Month	9,240	55,440
Period of Performance (Months)	6.0	6.0

**Location: In-Facility - One Time Costs**

One-time Costs Supplies/Equipment/Signage (per Site)	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
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**Location: In-Facility - Recurring Costs**

Total Onsite Personnel Cost (per Team/per Site/per Day)	\$12,443	\$9,078	
Consumable Supplies, PPE, Shipping (per Team/per Site/per Day)	\$887	\$982	<i>Estimated pass-through cost</i>
Program Management (per Team/per Site/per Day)	\$3,249	\$1,521	

**One Time Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
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**MONTHLY SUMMARY - Recurring Costs**

Total Personnel Cost (per Month)	\$373,292	\$1,633,999	
Total Consumable Supplies, PPE, Shipping (per Month)	\$26,607	\$176,799	<i>Estimated pass-through cost</i>
Total Program Management (per Month)	\$97,459	\$273,716	

<b>Total Recurring Cost / Month</b>	<b>\$504,535</b>	<b>\$2,108,195</b>
<b>Average Recurring Cost / Vaccine</b>	<b>\$54.60</b>	<b>\$38.03</b>

**Period of Performance 6 MONTH SUMMARY - Recurring Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
Total Personnel Cost	\$2,239,753	\$9,803,993	
Total Consumable Supplies, PPE, Shipping	\$159,641	\$1,060,793	<i>Estimated pass-through cost</i>
Total Program Management	\$584,755	\$1,642,296	

<b>Total Fees</b>	<b>\$2,991,325</b>	<b>\$12,530,763</b>
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**Optional Services**

Security - Overnight (Per Resource/per shift)	\$1,497	\$1,497
Interpreter (Per Resource/Per Shift)	\$1,000	\$1,000
Traffic Control (Per Resource/Per Shift)	\$999	\$999
Courier (Per Shift)	\$2,120	\$2,120
Transition Out Support (Per Resource/Per Month)	\$25,000	\$25,000

**Use and Disclosure of Data**

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**1.1.3. 24 Hour Event Days x 7 Days a Week**

<b>Pricing ROM - COVID-19 Vaccine Administration</b>	<b>24x7 Single</b>	<b>24x7 Mass</b>
Sites	1.0	1.0
Teams per Site	1.0	6.0
Workdays/Month	30.0	30.0
Maximum Vaccines (per Team, per Day)	630	630
Maximum Vaccines (per Day)	630	3,780
Total Vaccines / Month	18,900	113,400
Period of Performance (Months)	6.0	6.0

**Location: In-Facility - One Time Costs**

One-time Costs Supplies/Equipment/Signage (per Site)	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
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**Location: In-Facility - Recurring Costs**

Total Onsite Personnel Cost (per Team/per Site/per Day)	\$25,167	\$18,361	
Consumable Supplies, PPE, Shipping (per Team/per Site/per Day)	\$2,482	\$2,945	<i>Estimated pass-through cost</i>
Program Management (per Team/per Site/per Day)	\$4,873	\$2,281	

**One Time Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
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**MONTHLY SUMMARY - Recurring Costs**

Total Personnel Cost (per Month)	\$755,013	\$3,304,894	
Total Consumable Supplies, PPE, Shipping (per Month)	\$74,473	\$530,169	<i>Estimated pass-through cost</i>
Total Program Management (per Month)	\$146,189	\$410,574	

<b>Total Recurring Cost / Month</b>	<b>\$982,852</b>	<b>\$4,269,319</b>
<b>Average Recurring Cost / Vaccine</b>	<b>\$52.00</b>	<b>\$37.65</b>

**Period of Performance SUMMARY - Recurring Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$7,177	\$23,681	<i>Estimated pass-through cost</i>
Total Personnel Cost	\$4,530,081	\$19,829,366	
Total Consumable Supplies, PPE, Shipping	\$446,839	\$3,181,015	<i>Estimated pass-through cost</i>
Total Program Management	\$877,132	\$2,463,443	

<b>Total Fees</b>	<b>\$5,861,229</b>	<b>\$25,497,505</b>
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**Optional Services**

Security - Overnight (Per Resource/per shift)	\$918	\$918
Interpreter (Per Resource/Per Shift)	\$613	\$613
Traffic Control (Per Resource/Per Shift)	\$612	\$612
Courier (Per Shift)	\$1,341	\$1,341
Transition Out Support (Resource for one month)	\$25,000	\$25,000

**Use and Disclosure of Data**

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**1.1.4. Mobile Trailer: 8 Hour Event Days x 5 Days a Week**

<b>Pricing ROM - COVID-19 Vaccine Administration</b>	<b>Mobile - 1 Team</b>	<b>Mobile - 3 Teams</b>	<b>Mobile - 4 Teams</b>
Sites	1.0	1.0	1.0
Teams per Site	1.0	3.0	4.0
Workdays/Month	20.0	20.0	20.0
Maximum Vaccines (per Team, per Day)	210	210	210
Maximum Vaccines (per Day)	210	630	840
Total Vaccines / Month	4,200	12,600	16,800
Period of Performance (Months)	2.0	2.0	2.0

**Location: In-Facility - One Time Costs**

One-time Costs Supplies/Equipment/Signage (per Site)	\$11,071	\$23,520	\$30,369	<i>Estimated pass-through cost</i>
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**Location: In-Facility - Recurring Costs**

Total Onsite Personnel Cost (per Team/per Site/per Day)	\$8,240	\$5,872	\$6,006	
Consumable Supplies, PPE, Shipping (per Team/per Site/per Day)	\$827	\$649	\$665	<i>Estimated pass-through cost</i>
Mobile Trailer Fee (Per Day)	\$1,701	\$1,701	\$1,701	
Program Management (per Team/per Site/per Day)	\$2,933	\$1,503	\$1,318	

**One Time Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$11,071	\$23,520	\$30,369	<i>Estimated pass-through cost</i>
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**MONTHLY SUMMARY - Recurring Costs**

Total Personnel Cost (per Month)	\$164,805	\$352,327	\$480,490	
Total Consumable Supplies, PPE, Shipping (per Month)	\$16,550	\$38,957	\$53,189	<i>Estimated pass-through cost</i>
Mobile Trailer Fee (Per Month)	\$34,030	\$34,030	\$34,030	
Total Program Management (per Month)	\$58,667	\$90,188	\$105,469	

<b>Total Recurring Cost / Month</b>	<b>\$285,122</b>	<b>\$539,023</b>	<b>\$703,546</b>
<b>Average Recurring Cost / Vaccine</b>	<b>\$67.89</b>	<b>\$42.78</b>	<b>\$41.88</b>

**Period of Performance SUMMARY - Recurring Costs**

Total One-time Costs for Non-consumable Supplies/Equipment	\$11,071	\$23,520	\$30,369	<i>Estimated pass-through cost</i>
Total Personnel Cost	\$329,610	\$704,655	\$960,979	
Total Consumable Supplies, PPE, Shipping	\$33,099	\$77,914	\$106,378	<i>Estimated pass-through cost</i>
Mobile Trailer Fee	\$68,060	\$68,060	\$68,060	
Total Program Management	\$117,334	\$180,377	\$210,937	

<b>Total Fees</b>	<b>\$559,174</b>	<b>\$1,054,525</b>	<b>\$1,376,723</b>
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**Optional Services**

Security Personnel - Overnight (Per Resource/Per Day)	\$918
Interpreter (Per Resource/Per Day)	\$613
Traffic Control (Per Resource/Per Day)	\$612
Courier (Per Shift)	\$1,341

**Variable Fees**

Secured Storage	TBD
Trailer Transportation (per mile)	\$4.31
Driver Travel Expense	At Cost

**Use and Disclosure of Data**

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## 1.2. Price Assumptions.

- Total throughput is dependent on the State providing the appropriate volumes of the COVID-19 vaccines and that the State and TPA
- Full Day includes either 8, 12 or 24 hours of vaccine administration; 4 minutes per shot (based on historical experience and using OptumServe IT system); 60 mins of set-up & 30 mins teardown time, with a 30-minute unpaid lunch and two 15-minute paid breaks
- One-time costs are estimated to include: On-site cold chain supplies (vaccine thermometer, refrigerator, bar code scanner, etc.), EpiPen's, onsite team equipment, shipping, and signage
- Vaccination Events will be held daily, either 5 or 7 days a week
- Go-live of new sites will be dependent on timeliness and availability of the MyTurn system
- Changes to the scope can be made any time during the performance of this Agreement by mutual agreement as the Parties learn more about the vaccination roll out processes, procedures, and logistics.
- Travel costs are not included in the price; costs for bringing in clinical staff from other states will be evaluated if required and will be billed as cost reimbursable as a pass-through cost
- If vaccination observation is held outside, additional staff is required for observation
- If walk-ups appointments are required, additional staff may be required, and estimated vaccine throughput will be affected
- Transition out support includes one month (20 days/8-hours a day) of consultative support should the TPA choose to terminate their arrangement with the Contractor. Number of resources required will depend on number of vaccine sites that are to be transitioned.
- Optional Security, Interpreter, Traffic Control and Courier services are priced in 9-hour shifts, number of resources needed will be dependent on site requirements and site hours of operation.
- Any sites provided by GovOps or the TPA must have adequate space for a successful vaccine event (space for registration, cold chain, reconstitution, adequate social distancing, space for adverse event observation)
- GovOps in partnership with LHJs are responsible for any ultra-cold chain storage and delivering thawed vaccine to site locations where OptumServe will maintain the cold-chain management on site. Future cold-chain supplies, if used for courier or on-site management services, will be billed at Cost + G&A expense, no mark-up.
- PPE, event supplies, shipping, & ancillary medical supplies will be billed at Cost + G&A expense, No Mark-up; Site specific or consumable supplies may also include items such as refrigeration, storage, facility costs, if applicable
- If vaccine is a multi-dose vial and unable to be administered in full, OptumServe will not be held responsible for the amount considered "spoilage"
- A cancellation fee will apply equal to the Full Day price if an event is cancelled with less than 72 hours' notice

### Additional assumptions for Mobile Trailer offering

- Mobile Trailers can be utilized for vaccine administration beginning April 2021
- Each mobile trailer has required space for 1-3 reconstitution/drawing nurses, which determines the number of teams and expected throughput.
- If more than four (4) teams (estimated throughput of 840 vaccines per 8-hour day) is required, an additional trailer will be required.
- Each trailer is equipped with heating & A/C, generator, medical grade refrigerator, manual pump handwashing station, storage for supplies during travel.



#### Use and Disclosure of Data

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- Mobile trailer fee includes the daily cost of the trailer and daily set-up and tear down fees.
- One-time costs added for mobile trailer are estimated to include: Canopy tents, tables, chairs, portable restrooms and will be billed at cost + G&A, no mark up.
- Mileage and driver per-diem will be billed at cost + G&A expense, no mark-up.
- Secured overnight storage of the trailer is not included in the pricing as this will be dependent on the site location.
- Trailer driver is included in on-site team to provide trailer maintenance and traffic control support



*Use and Disclosure of Data*

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## **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 from any and all claims and losses accruing or resulting from the negligence or intentional misconduct of Contractor and/or all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the 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 negligence or intentional misconduct in the performance of this Agreement.
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. 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 payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination 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.

Prior to any termination for cause, the State shall issue a written notice of failure to perform to Contractor and shall provide Contractor ten (10) days to cure, unless a longer period is agreed to in writing by the parties.

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.
14. 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.
15. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
16. 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:

- i. "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.

- ii. 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.

17. 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. 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.

18. 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.

19. 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.

20. 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.)

21. 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).)
22. 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 subcontractors; 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 22 will take effect in either scenario (each, a "Force Majeure Event"). The Parties acknowledge that the state of the COVID-19 pandemic as of the effective date of the Agreement does not constitute force majeure for purposes of excusing performance under this Agreement but acknowledge that a material change in the state of the pandemic after the effective date of the Agreement that has a material adverse effect on Contractor's ability to perform may constitute a force majeure event. In such event, the parties shall discuss such change and negotiate equitable adjustments to the Agreement. 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 D**

### **SPECIAL TERMS AND CONDITIONS**

#### **1. RIGHT TO TERMINATE**

GovOps, at its sole discretion, may terminate this Agreement for convenience upon thirty (30) days' advance written notice to the Contractor. Contractor may submit a written request to terminate this Agreement only if GovOps should substantially fail to perform its responsibilities as provided herein.

#### **2. DISPUTE RESOLUTUION**

In the event of a dispute, the Contractor shall file a written dispute notice with the State Contract Manager within ten (10) State business days after discovery of the problem. Pending resolution of any dispute, the Parties shall continue to perform under this Agreement, and Contractor shall diligently continue all work and comply with all the State Contract Manager's orders and directions.

A. The written dispute notice shall contain the following information:

- a. The decision under dispute;
- b. The reason(s) the Contractor believes the decision in dispute to have been in error (if applicable, reference pertinent Agreement provisions);
- c. Identification of all documents and substance of all oral communications that support the Contractor's position; and
- d. The dollar amount in dispute, if applicable.

B. Upon receipt of the written dispute notice, the State Contract Manager will examine the matter and issue a written decision to the Contractor within (10) State business days. The decision shall contain the following information:

- a. A description of the dispute;
- b. A reference to pertinent Agreement provisions, if applicable;
- c. A statement of the areas of the agreement or disagreement; and
- d. A statement of the State Contract Manager's decision with supporting rationale.

- C. The decision of the State Contract Manager shall be final unless, within thirty (30) calendar days from the date of the receipt of the decision, the Contractor files with the State a notice of appeal addressed to:

California Government Operations Agency  
Attn: Secretary, Yolanda Richardson  
915 Capitol Mall, Suite 200  
Sacramento CA 95814

The decision of the Secretary, or Secretary's designee, shall be final.

### **3. PROTECTION OF CONFIDENTIAL AND SENSITIVE INFORMATION**

- A. Contractor shall impose all the requirements of this provision on all of its officers, employees and subcontractors with access to Confidential Information. Contractor, including all of its officers, employees and subcontractors with access to Confidential Information will sign the Non-Disclosure Agreement (Exhibit D-1) and return it to GovOps prior to accessing Confidential Information.
- B. "Confidential Information" means information, the disclosure of which is restricted or prohibited by any provision of State or federal law or which is treated as privileged or confidential under such laws. Such Confidential Information includes, but is not limited to, information that is exempt from disclosure under the California Public Records Act (Government Code sections 6250-6255, public social services client information described in California Welfare and Institutions code section 10850, and "personal information" about individuals as defined in California Civil Code Section 1798.3 of the Information Practices Act (IPA) if the disclosure of the "personal information" is not otherwise allowed by the IPA. Such Confidential Information may also include financial, statistical, personal, technical, and other data and information relating to operation of GovOps, California Department of Public Health (CDPH), or the Governor's Office (GO).
- C. Contractor shall take all necessary measures to protect Confidential Information to which it or its Affiliates gain access from unauthorized access (accidental or intentional), modification, destruction, or disclosure. These measures may include but are not limited to: password protection of electronic data, required two-factor authentication, secure transmission of electronic data, and secure mailing and locked storage of paper and taped copies. Such measures may also include establishment of secure workstations and maintenance of a secure workstation access log. Contractors shall also apply appropriate security



patches and upgrades and keep virus software up to date on all systems on which Confidential Information may be used.

- D. Contractor shall ensure that all media, including electronic media, containing Confidential Information, to which it is given access is protected at the level of the most confidential or sensitive piece of data on the media.
- E. Contractor and employees allowed access to Confidential Information shall be limited to those persons with a demonstrable business need for such access. Contractor shall maintain a current listing of all Contractor and employees with access to Confidential Information.
- F. Contractor shall notify GovOps within twenty-four (24) hours if a security breach involving Confidential Information occurs or if Contractor becomes legally compelled to disclose any Confidential Information.
- G. At or before the termination date of the Contract, Contractor shall either destroy all Confidential Information in accordance with approved methods of confidential destruction; or return all Confidential and Sensitive Information to GovOps.

#### **4. ENTIRE AGREEMENT**

This Agreement (including the Exhibits and documents incorporated into this Agreement by reference) is the complete and exclusive statement of the Agreement between the Parties relating to the subject matter of this Agreement and supersedes all prior contracts or prior representations, oral or written, between the Parties relating to the subject matter of this Agreement.

#### **5. POTENTIAL SUBCONTRACTORS AND RESUMES**

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of their responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from any obligation of the State. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

## **6. CONTRACTOR STAFF EXPENSES**

The Contractor represents that it has or shall secure at its own expense all personnel required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with GovOps or the State of California.

## **7. STATE EMPLOYEE ENGAGEMENT**

Contractor shall work closely and collaboratively with state employees as part of their performance under the terms of this agreement. At no time, shall the Contractor, Contractor's employee(s), or subcontractors, if any, be responsible for the management of State employees, including but not limited to, employee timesheet reporting, performance reviews, or other administrative actions related to state employees. However, under the direct supervision, and upon approval from, the GovOps-designated contract manager, the Contractor, Contractor's employee(s), or subcontractors may assign specific tasks to state employees working on the COVID-19 vaccine distribution plan if such work is part of the State employees' normal job responsibilities. GovOps shall exclusively be responsible for determining whether or not such requests fits within a state employee's job duties.

## **8. RIGHTS IN WORK PRODUCT**

All intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, and other documentations (collectively, the "work product") shall be the GovOp's exclusive property.

## **9. INSURANCE PROVISIONS**

A. General Provisions Applying to All Policies:

- I. Coverage Term – Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least five (5) days prior to the expiration of this insurance. Any new insurance must still comply with the original terms of the contract.
- II. Policy Cancellation or Termination & Notice of Non-Renewal – Contractor is responsible to notify the State within five business days before the effective date of any cancellation, non-renewal, or material change that affects required insurance coverage. In the event Contractor fails to keep in effect at all times the specified

insurance coverage, the State 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.

- III. Deductible – Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
- IV. Primary Clause – Any required insurance contained in this contract shall be primary, and not excess or contributory, to any other insurance carried by the State. This requirement shall be limited to when additional insured status is applicable.
- V. Insurance Carrier Required Rating – All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- VI. Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- VII. Inadequate Insurance – Inadequate or lack of insurance does not negate the Contractor's obligations under the contract.
- VIII. Satisfying an SIR - All insurance required by this contract must allow the State to pay and/or act as the Contractor's agent in satisfying any self-insured retention (SIR). The choice to pay and/or act as the Contractor's agent in satisfying any SIR is at the State's discretion.
- IX. Available Coverages/Limits - All coverage and limits available to the contractor shall also be available and applicable to the State, when additional insured status is applicable, regardless of the minimum limits required in Section 2. Insurance Requirements below.
- X. Subcontractors - In the case of Contractor's utilization of subcontractors to complete the contracted scope of work, Contractor shall either include all subcontractors as insureds under Contractor's insurance or supply evidence to the state that subcontractors carry their own insurance that is equal to the policies, coverages and limits required of Contractor.

- XI. Premiums – The contractor shall be responsible for any premium, deductible or self-insured retention in connection with any Required Insurance.
- XII. Required Insurance - By requiring the insurance herein, the State does not represent that the insurance coverage and limits will necessarily be adequate to protect the Contractor and such coverage and limits shall not be deemed as a limitation on the Contractor's liability under the indemnities granted to the Department in this Contract.
- XIII. Insurance Certificate - Contractor shall provide an insurance certificate evidencing the required insurance coverage before work commences under this Agreement.

B. Insurance Requirements

I. Commercial General Liability

Contractor shall maintain general liability on an occurrence form with limits not less than \$5,000,000 per occurrence and \$10,000,000 aggregate for bodily injury and property damage liability. 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 which claim is made, or suit is brought subject to the Contractor's limit of liability. The policy must name The State of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the contract.

II. Automobile Liability

Contractor shall maintain motor vehicle liability 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. The policy must name The State of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the contract. If contractor will not have any commercially owned vehicles used during the life of this Agreement, by signing this Agreement, the Contractor certifies that the Contractor and any employees, subcontractors or servants possess valid automobile coverage in

accordance with California Vehicle Code Sections 16450 to 16457, inclusive. The State reserves the right to request proof at any time.

III. Workers' Compensation and Employer's Liability

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 Contract. In addition, employer's liability limits of \$1,000,000 are required. By signing this contract, Contractor acknowledges compliance with these regulations. A Waiver of Subrogation or Right to Recover endorsement in favor of the State of California must be attached to certificate.

IV. Professional Liability

Contractor shall maintain Professional Liability, Errors and Omissions insurance appropriate to the Contractor's profession and work hereunder, which shall be limited to no more than \$10,000,000 per claim and in the aggregate, to cover and respond to the duties and obligations as is undertaken by the Contractor in this agreement.

The insurance coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this agreement and shall include, but not be limited to, Cyber liability and claims involving privacy liability and network security. The policy shall also provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. The policy coverage described in this paragraph shall be limited to Contractor's legal liability to others for these types of claims.

If the policy is written on a claims-made basis:

- a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.
- c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date

prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

#### C. Certificate of Insurance

The Contractor shall furnish proof of Insurance. The Certificate of Insurance will provide the above listed liability coverages and be sent to:

Government Operations Agency  
Attn. Michael Miyao  
915 Capitol Mall, Suite 200  
Sacramento, CA 95814

### **10. ACCESSIBILITY REQUIREMENT**

Contractor shall ensure that services and deliverables under this contract are accessible to the general public and by state employees, including persons with disabilities.

Contractor shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973 (Act), as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Code of Federal Regulations, which requires Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 7405 codifies Section 508, requiring accessibility of EIT. To the extent that this contract falls within the scope of Government Code Section 7405, Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.

In addition, Contractor assures the state that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).

### **11. COMPLIANCE WITH STATUTES AND REGULATIONS**

Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the state against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.

### **12. WARRANTIES**

Contractor represents and warrants that it is free to enter into and fully perform under the terms of this Agreement.

### **13. FEMA PROVISIONS**

#### **A. Remedies**

Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under the Agreement, at law or in equity, and exercise of one right or remedy will not be deemed a waiver of any other right or remedy.

#### **B. Equal Employment Opportunity**

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another

employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



- h. The contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In

addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

### C. Contract Work Hours and Safety Standards Act

#### Compliance with the Contract Work Hours and Safety Standards Act.

- a. 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.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (C)(a) 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)(a) 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)(a) of this section.
- c. Withholding for unpaid wages and liquidated damages. GovOps 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)(b) of this section.

- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (C)(a) through (d) 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)(a) through (d) of this section.

#### D. Clean Air Act

- a. 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.
- b. The contractor agrees to report each violation to the California Air Resources Board and understands and agrees that the California Air Resources Board will, in turn, report each violation as required to assure notification to the Department of Resources Recycling and Recovery, the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- c. 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. The Federal Water Pollution Control Act

- a. 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.
- b. 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.

- c. 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

- a. This contract 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).
- b. 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.
- c. This certification is a material representation of fact relied upon by Cal OES. 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 Cal OES, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. 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 Clause

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

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.

#### 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.

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Signature of Contractor's Authorized Official

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Name and Title of Contractor's Authorized Official

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

#### H. Procurement of Recovered Materials

- a. In the performance of this contract 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.
- b. Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

I. Access to Records

The following access to records requirements applies to this contract:

- a. The Contractor agrees to provide Cal OES, the FEMA Administrator, the Controller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever of to copy excerpts and transcriptions as reasonably needed.
- c. The contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.
- d. In compliance with the Disaster Recovery Act of 2018, the Cal OES and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

J. DHS Seal, Logo, and 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 only. The contractor will comply with all 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 contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

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

The contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's action pertaining to this contract.

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## **Exhibit D-1**

### **NON-DISCLOSURE CERTIFICATE**

I hereby certify my understanding that access to Confidential and Sensitive Information is provided to me pursuant to the terms and restrictions of the Protection of Confidential and Sensitive Information, Special Terms and Conditions. I hereby agree to be bound by those terms and restrictions. I understand that all Confidential and Sensitive Information, as defined in the Protection of Confidential and Sensitive Information, and any notes or other memoranda, or any other form of information, electronic or otherwise that copies or discloses Confidential Information, shall not be disclosed to anyone other than in accordance with Special Terms and Conditions. I acknowledge that a violation of this certificate may result in termination of the Contract and/or imposition of civil or criminal penalties.

Signed: \_\_\_\_\_

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

Representing (give name of Contractor/Affiliate):

\_\_\_\_\_

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

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