

**SCO ID:**

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER <b>0511-GOVOPSC2026</b>	PURCHASING AUTHORITY NUMBER (If Applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Government Operation Agency

CONTRACTOR NAME

McKinsey &amp; Company, Inc. Washington D.C.

2. The term of this Agreement is:

START DATE

2/18/2021

THROUGH END DATE

4/30/2021

3. The maximum amount of this Agreement is:

\$13,000,000.00

Thirteen 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	1
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Exhibit B	Budget Detail & Provisions	4
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*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.)

McKinsey &amp; Company, Inc. Washington D.C.

CONTRACTOR BUSINESS ADDRESS

1200 19th Street NW STE 1000

CITY

Washington

STATE

D.C.

ZIP

20036

PRINTED NAME OF PERSON SIGNING

Tony D'Emidio

TITLE

Partner

CONTRACTOR AUTHORIZED SIGNATURE

**Tony D'Emidio**

 Digitally signed by Tony D'Emidio  
Date: 2021.03.05 16:42:08 -05'00'

DATE SIGNED

March 5, 2021

**SCO ID:**

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER <b>0511-GOVOPSC2026</b>	PURCHASING AUTHORITY NUMBER (If Applicable)
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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Government Operation Agency

CONTRACTING AGENCY ADDRESS

915 Capitol Mall, Suite 200

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Justyn Howard

TITLE

Deputy Secretary, Fiscal Policy and Admin.

CONTRACTING AGENCY AUTHORIZED SIGNATURE

**Justyn Howard**

 Digitally signed by Justyn Howard  
 Date: 2021.03.05 14:30:22 -08'00'

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

PCC 1102

Executive Order N-25-20-COVID19

## **EXHIBIT A**

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

#### **PURPOSE**

California Government Operations Agency (GovOps) is contracting with McKinsey & Company, Inc. Washington D.C. (Contractor), independently a "Party" and collectively "Parties," for expert COVID-19 Vaccine services related to the efficient and effective distribution and administration of the COVID-19 vaccine and support of the State of California's Third Party Administrator. 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:**

Contractor agrees to assist and provide to the California Government Operations Agency (GovOps), who is responsible for leading the State of California's Vaccine Task Force, the detailed services described in Attachment I of this Exhibit.

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

The State shall:

- A. Designate a point person to whom all communication may be addressed.
- B. Review Contractor's deliverables and provide timely feedback or approval for the Contractor to perform its obligations under this Agreement.
- C. Identify and provide relevant state information and data for use by the Contractor in the performance of its duties hereunder.
- D. Provide state email and information technology access to help facilitate Contractor's engagement with other state personnel and entities.

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

The term of this Agreement is February 1, 2021, through April 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 is commenced prior to the start date shall be at no cost to the State.

**EXHIBIT A**  
**ATTACHMENT I**

Context

California continues to face the ongoing COVID-19 pandemic. McKinsey & Company, Inc. Washington D.C. (Contractor and referred to as “we”, “us”, and “our” in this Exhibit A Attachment I) has been privileged to partner with the Vaccine Task Force (VTF) as you respond to ongoing events and challenges. As we have worked together, the necessary scope has evolved. You have asked us for support from February to April in the areas outlined below.

We jointly expect the support needs to evolve over the coming weeks and months. With that in mind, we will work closely with you to dynamically focus our efforts where they can be most impactful. We look forward to partnering with you in this critical new phase of work.

Scope

The intention of the scope statement that is outlined below is to provide the necessary support to enable the vaccine effort to advance its goals through the end of April. Based on our discussions, we will continue to evolve the scope and/or reallocate team members as priorities or resources change based on your guidance.

At this time, there are four workstreams that you would like support for in the immediate term:

1. Vaccine leadership support: Provide support to the VTF leadership team through data and insights, predictive modeling, consumer survey, and other rapid support as needed
2. Communication and coordination with Local Health Districts (LHDs), Providers, and Internal staff: Focus on organizing incoming/outgoing information, developing Quick Sheets to rapidly locate information, creating systems for quickly responding to emails, monitoring call center volume, managing frequently asked questions, and related processes
3. Vaccine Operations: Support the scale-up strategy including scenario development with in depth modeling of capacity, supply, and demand; Support Provider operations and performance management to achieve capacity targets; Support other vaccine administration channels, including modeling capacity and outlining operationalization needs (e.g., mega-site and turnkey operations and support)
4. Third-Party Administrator (TPA) Support: Support the TPA in carrying out critical tasks it needs to deliver on behalf of the State including vaccination network

development and management, supply chain management and operations and workflows.

The activities and details associated with each are described below:

1. Vaccine leadership support

1.1 Continue to evolve the overall Vaccine Control Tower

1.1.1 Help to evolve key workstreams and respective responsibilities, and decision-making norms

1.1.2 Support the cadence of the team (e.g., daily stand-up meetings to check status and surface risks / topics that need attention) as well standing interactions needed across the governance bodies

1.1.3 1.1.3 Support workstream leads to engage effectively with the VTF leadership (setting expectations, refining and aligning project plans, participating in “report outs”)

1.2 Work with the VTF leadership and relevant teams from the State to stand up the “daily data pulse” for the VTF to track key metrics including equity, second dose completion, inventory levels, wastage, etc.

1.3 Create and update an ongoing “predictive scenario model” to support the leadership team in understanding how the overall effort is tracking towards goals and interim milestones based on current performance, focusing on vaccination capacity, dose supply, and consumer demand

1.4 Create and launch a consumer survey focused on understanding Californians’ attitudes towards the COVID-19 vaccine

1.5 Support urgent requests under the direction of VTF executive sponsor and project lead (e.g., requests from State leadership, strategies for relevant emergent challenges)

2. Communication and coordination with LHDs, Providers, and Internal staff

2.1 Develop/Maintain/Organize systems and processes to ensure internal staff has consistent and approved responses for communication with LHDs and Providers

2.1.1 Develop a process to manage questions coming in from various LHD and Provider touchpoints (webinars/office hours and ad hoc requests)

2.1.2 Develop a process through which consistent and subject-matter expert (SME)-approved answers are developed and verified

- 2.1.3 Organize the incoming and outgoing information and resources which require communication updates to LHDs and Providers
  - Information from CDC, OWS, Pfizer, Moderna, etc.
  - Process for timely dissemination, updating, and organization of new information to providers/LHDs/internal team, etc.
- 2.1.4 Develop information repository where SME-approved content is made available internally on SharePoint and made available internally for dissemination through various channels
- 2.1.5 Develop a process through which FAQs are shared back out in multiple platforms by internal staff (including turning them into FAQs that could be posted)
- 2.2 Support ongoing coordination needs with LHDs and Providers through scale up efforts

Note: in all instances above, communications will be geared towards LHDs, Providers, and Internal State Staff (i.e., not the general public). In addition, the Contractor's team will focus on developing processes, and supporting / preparing communication materials for review and distribution by the State.

### 3. Vaccine operations

- 3.1 Scale up strategy support and modeling.
  - 3.1.1 Develop model to understand scale-up scenarios, potential targets, and implications on capacity, supply and demand
  - 3.1.2 Provide dynamic view of scenarios, including key assumptions and important implications based on State leadership and State agency feedback
- 3.2 Provider operations and performance management
  - 3.2.1 Provider / new site strategy and playbook
    - 3.2.1.1 Support building provider / new vaccination site strategy to reach desired vaccination capacity
      - Define vaccination capacity needs and build strategy to achieve it, informing the long-term vaccine rollout plan
    - 3.2.1.2 Develop a new site playbook and readiness checklist

- Develop a detailed readiness checklist and operating model playbook for each site type (incorporating CDC and State guidelines and feedback)
- Define the technical, operational, logistics, and safety requirements, such as personal protective equipment (PPE) supply and cold storage; updating them as priority populations are expanded
- Provide feedback on the site tracking plan and dashboard to be used to monitor sites, and assist with tracking and identifying sites at risk of not being ready by their scheduled date

### 3.3 Channel strategy and site set-up

- 3.3.1 Identify, assess, and support development of additional needs to reach vaccination goals within identified timelines (e.g., deployment of Turnkey operations, vaccination mega sites, strike teams, etc) under direction of the executive sponsor and project lead

## 4. Support to TPA ramp-up and operations

### 4.1 Support network development and management workstream

- 4.1.1 Support TPA in initial analysis of current vaccination network of enrolled providers including location and performance
- 4.1.2 Support TPA in completing initial "Draft 1" version of statewide network geo access map that could meet the State's performance criteria with an initial number of contracts/relationships
- 4.1.3 Support TPA in developing successive draft network geo access maps, and providing a fact base for TPA and State decisions about potential further evolution of the network
- 4.1.4 Support TPA in creating a network transition plan, measuring ongoing performance, and identifying ongoing improvement opportunities

### 4.2 Support supply chain management and workflows and operations workstreams

- 4.2.1 Continue to iterate on current draft of performance reporting mockups
- 4.2.2 Support creation of integrated workflows covering process for ordering and tracking, process for providers and consumers, including vaccine journey, data elements, TPA and other stakeholder roles (note that only limited technical support is expected to be needed in this step – the focus is on operational and stakeholder journey flows)

- 4.2.3 Support the TPA in identifying operational support needs such as the size and scope of the relevant provider and consumer call centers, and assist in developing a fact base for discussion with the State on how these needs will best be met

The TPA is working at all times in support of the State to implement the State's vision and guidance for the statewide vaccination network. The activities in workstream 4 are intended to help achieve the State's goals through transition/ramp-up support and targeted operations support.

#### Pre-requisites

The scope of the activities and deliverables outlined above, and the associated pricing listed in Attachment I of Exhibit B, assumes the following requirements for success:

1. Contractor and the State maintain a process to jointly re-prioritize focus areas to ensure on an ongoing basis that resources are deployed against the highest priority activities. Major changes to the prioritization in this document will be communicated by the State to Contractor as soon as possible and will be captured in an email from Contractor to the State to confirm such changes.
2. The State will onboard the necessary resources to enable the effective handover of responsibilities to State ownership over time.
3. The State will continue to provide clarity on circumstances that may change the scope or expectations of the engagement.

#### Assumptions

In consideration for the services, the State agrees not to use Contractor's name or trademark, without Contractor's prior written permission and understands that Contractor will not advocate, present findings, or speak on the State's behalf in any public forum without specific written authorization and agreement. Notwithstanding, Contractor understands and acknowledges that the State may have legal obligations to disclose such information (e.g., as required under Public Disclosure or Freedom of Information Laws), but requests that the State provide prior notification to Contractor in such a circumstance.

Contractor will provide fact-based, independent analysis that the client can use to develop its own work and recommendations; Contractor is not registered as a lobbyist and will not provide advice, opinions or recommendations on policy or political matters nor will it be involved in, or support, any advocacy, policy, or lobbying efforts. Contractor's services cannot be for the principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing any legislative or administrative action.

Contractor will provide the deliverables in the State's name and format, or as designated by the client, but with no reference to Contractor or use of Contractor's brand.

The State agrees not to use Contractor's name externally in relation to the work without Contractor's prior written permission.

The services shall not be deemed medical, investment, legal, tax, accounting or other regulated advice, such as professional advice normally provided by licensed or certified practitioners, and do not constitute policy advice. Contractor does not supplant the client's management or other decision-making bodies and does not guarantee results. Contractor's services under this engagement are an extension of and supplement to the government functions performed by the client. The State remains solely responsible for its decisions (including policy decisions), actions, use of the deliverables and compliance with applicable laws, rules and regulations.

Contractor affiliates provide consulting services to commercial institutions across all industries and a myriad of non-profit entities. These consulting services include analysis and advice across all areas of business, including on strategy, operations, manufacturing and marketing. As some Contractor affiliate clients may be impacted by decisions you make or policies you adopt as a result of Contractor's work on this engagement apparent or actual organizational conflicts of interest may arise. Prior to awarding a contract to Contractor, we expect you to determine that either (i) any potential for conflict is not significant or can be appropriately mitigated, or (ii) the applicable rules governing organizational conflicts of interest have been waived.

These services are being provided as covered countermeasures to the COVID-19 epidemic pursuant to the U.S. Department of Health and Human Services' February 4, 2020 Declaration pursuant to the Public Readiness and Emergency Preparedness Act and are to be used as authorized by the public agency to which they ultimately are provided.

## 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 for its fees in accordance with the amounts specified in Exhibit B Attachment 1.
- 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 A.
  - 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.
- E. The maximum amount payable under this Agreement shall not exceed:  
**\$13,000,000.00.**

#### 2. Budget Contingency Clause

It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional and/or legislative appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

This agreement is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate State Fiscal Year(s) covered by this Agreement for the purposes of this program; and (2) sufficient funds are made available to the State by the United States Government or by the State of California

for the Fiscal Year(s) covered by this Agreement for the purposes of this program. In addition, this Agreement is subject to any additional applicable restrictions, limitations or conditions established by the United States Government and/or the State of California, or any applicable statute enacted by the Congress and Legislature, which may affect the provisions, terms or funding of the Agreement in any manner.

The parties mutually agree that if the Congress and Legislature does not appropriate sufficient funds for the program, this agreement shall be amended to reflect any reduction in funds.

GovOps has the option to terminate the agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

### 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**

Arrangements

Contractor's total professional fees for the engagement described in Exhibit A are outlined below. The monthly fees reflect all the resources required to deliver the impact and scope of work, as described in Attachment I of Exhibit A, inclusive of all expenses incurred and all required resources (e.g., administrative support, production, proprietary tools, benchmarks, data researchers) as well as COVID-specific resources.

Contractor Pricing

Totals are inclusive of all fees and expenses

Workstreams 1, 2, 3 and 4 February 2021: \$4,200,000.00

Workstreams 1, 2, 3 and 4 March 2021: \$4,400,000.00

Workstreams 1, 2, 3 and 4 April 2021: \$4,400,000.00

Total for full period February 1 – April 30, 2021: \$13,000,000.00

## **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 to any and 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 in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. **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.
8. **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.
9. **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).
10. **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.

11. 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.

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

13. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.)

20. 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).)

## 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 RESOLUTION**

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: Deputy Secretary, Justyn Howard  
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. Each Party shall impose all the requirements of this provision on all of its officers, employees and subcontractors with access to the other Party's Confidential Information. Contractor, including all of its officers, employees and subcontractors with access to GovOps, California Department of Public Health, or Governor's Office 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. Each Party shall take all necessary measures to protect the other Party's 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. Each Party 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. Each Party 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. A Party and its employees allowed access to the other Party's 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. A Party shall notify the other Party within twenty-four (24) hours if a security breach involving the other Party's Confidential Information occurs or if Contractor becomes legally compelled to disclose the other Party's Confidential Information.
- G. At or before the termination date of the Contract, Contractor shall either destroy all GovOps, California Department of Public Health and Governor's Office Confidential Information in accordance with approved methods of confidential destruction; or return all Confidential and Sensitive Information to GovOps.

#### **4. POLITICAL REFORM ACT REQUIREMENTS:**

- A. Form 700 Disclosure: GovOps considers that the Contractor, subcontractor(s), and/or their key staff may be a consultant, i.e., a public official, within the meaning of the Political Reform Act, specifically Government Code §82048 and Title 2, California Code of Regulations §18701. Accordingly, as specified by GovOps, such persons shall complete and submit to the GovOps Administration Manager, Michael Miyao, a Form 700, Statement of Economic Interests, within 30 days of the earlier of the date work commences or the effective date of this agreement, updated both annually and when changes in key staff or duties occur. Contractors may access the Form 700 on the Fair Political Practices Commission website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Any questions regarding completion of the Form 700 should be addressed to the FPPC at its website or at (866) 275-3772 (866/ASK-FPPC). A leaving office statement must also be filed upon completion of all contract assignments.

B. Financial Conflict of Interest Prohibition: Contractor must review the Form 700s filed by its key staff and subcontractors and determine whether, in the light of the interests disclosed, performance under the contract could violate Government Code §87100. Contractor shall notify GovOps immediately of any potentially disqualifying conflict of interest. Government Code §87100 provides: "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

C. Consequences of Failure to Comply with Political Reform Act Requirements: Any one of the following shall constitute a breach of this Contract and shall be grounds for immediate termination of this Contract:

- 1) Failure to complete and submit all required Form 700s within the thirty (30) day period as required in paragraph A above, or respond to any request from GovOps for additional information regarding any such Form 700s;
- 2) Failure to notify GovOps of a potentially disqualifying conflict of interest;

The determination by GovOps or the Contractor that any individual, who is a contractor, subcontractor, and/or a key member of their staff, has a financial interest that could result in a violation of Government Code §87100 provided, however, that GovOps may opt to waive such breach if Contractor replaces any such individual within two working days after a determination of such financial interest.

## **5. 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.

## **6. 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.

Within seven (7) business days of execution of this Agreement, Contractor shall provide a list to GovOps, along with all individual resumes, of staff that the Contractor plans to assign to work on this Agreement. After the initial seven (7) days have passed, this list shall be maintained and updated as necessary by the Contractor should additional personnel be assigned by the Contractor to work on the activities outlined in this Agreement. Contractor agrees to provide this list monthly to GovOps.

## **7. 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.

## **8. 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.

## **9. RIGHTS IN WORK PRODUCT**

All intellectual property, technical communications and records originated or first 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. The Contractor retains ownership of all concepts, know-how, tools, questionnaires and assessments, modules, courses, frameworks, software, algorithms, databases, content, models, and industry perspectives developed or enhanced outside of or in connection with this Agreement (the "Contractor IP"), it being understood that none of the Contractor IP will contain the GovOps Confidential Information. To the extent the work products include any embedded Contractor IP, the Consultant hereby grants the GovOps a non-exclusive, non-transferable, non-sublicenseable, worldwide, royalty-free license to use and copy the Contractor IP solely as part of the work products and subject to the limitations herein on disclosure of the Contractor's materials and publicity. GovOps agrees that, without the Contractor's prior written permission, it will not, or permit any third party to (a) access, copy or reverse engineer the work products or Contractor IP, or (b) remove or circumvent security or technological safeguards, including notices, digital protection mechanisms, metadata, watermarks, or disclaimers provided with the work products or Contractor IP.

## **10. INSURANCE REQUIREMENT**

### **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 thirty (30) days prior to the expiration of this insurance. Any new insurance must still comply to the original terms of the contract.
- II. Policy Cancellation or Termination & Notice of Non-Renewal – Contractor is responsible to notify the State within 5 business days 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.

- 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.
- B. **Commercial General Liability** – Contractor and any subcontractors shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limits shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. If the aggregate applies "per project/location" it shall so state on the certificate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability.
- C. **Workers Compensation and Employers 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. Employer's liability limits of \$1,000,000 are required.
- D. **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

## **11. ACCESSIBILITY REQUIREMENT**

Contractor shall ensure that services and deliverables under this contract are accessible to the general public (upon written approval from the Contractor) 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).

## **12. 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.

## **13. WARRANTIES**

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

## **14. NONDISCRIMINATION**

As a recipient of State Funds, GovOps is required to comply with California Government Code Section 11135, which prohibits discrimination against any person under any program or activity that is funded by the state. Contractor agrees to comply with Section 11135 in performing services under this agreement.

## 15. 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 2C.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.



\_\_\_\_\_  
Signature of Contractor's Authorized Official

Tony D'Emidio, Partner

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

Date: March 5, 2021

#### 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.

**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: Tony D'Emidio, Partner

Representing (give name of Contractor/Affiliate):

McKinsey & Company, Inc. Washington D.C.

Date: March 5, 2021

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

During the term of this contract, the Contractor shall report to Justyn Howard, Deputy Secretary, California Government Operations Agency. Contractor shall also engage collaboratively with other entities and individuals, as designated by Justyn Howard, 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

McKinsey & Company, Inc. Washington DC

Name: Justyn Howard

Name: Laura Furstenthal

Phone: (916) 651-9011

Phone: (415) 318-5124

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

Email: [Laura.Furstenthal@mckinsey.com](mailto:Laura.Furstenthal@mckinsey.com)

All inquiries related to this agreement shall be directed to:

Government Operations Agency

McKinsey & Company, Inc. Washington DC

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