

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 20-10869	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 Department of Public Health

CONTRACTOR NAME
Medical Solutions, LLC

2. The term of this Agreement is:

START DATE
January 28, 2021

THROUGH END DATE
June 30, 2021

3. The maximum amount of this Agreement is:
Ten Million Dollars
\$10,000,000.00

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	Attachments 1-6, Services Agreement	17
Exhibit B	Budget Details and Payment Provisions	3
+ - Exhibit C*	General Terms and Conditions	GTC 04/2017
+ - Exhibit D	Special Terms and Conditions	7
+ - Exhibit E	Federal Emergency Management Agency Provisions	5

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.)
Medical Solutions, LLC

CONTRACTOR BUSINESS ADDRESS 1010 N 102nd Street, Suite 300	CITY Omaha	STATE NE	ZIP 68114
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PRINTED NAME OF PERSON SIGNING Chris Ahl	TITLE Risk Manager
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CONTRACTOR AUTHORIZED SIGNATURE Chris Ahl	DATE SIGNED 01/29/2021
---	---------------------------

Digitally signed by Chris Ahl
DN: cn=Chris Ahl, o=Medical Solutions, LLC, ou, email=chris.ahl@medicalsolutions.com, c=US
Date: 2021.01.29 07:14:22 -0600

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AGREEMENT NUMBER 20-10869	PURCHASING AUTHORITY NUMBER (If Applicable)
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

1616 Capitol Avenue

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING


Tim Bow

TITLE

Procurement Officer

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Timothy Bow

 Digitally signed by Timothy Bow
Date: 2021.01.29 08:30:22 -08'00'

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

Proclamation of a State of Emergency/Executive Order N-25-20

**Exhibit A
Scope of Work**

1. Service Overview

Contractor agrees to provide to the California Department of Public Health (“CDPH” or “State”) the services described herein.

Vendor shall upon Client’s request for supplemental personnel (“Staff”) use commercially reasonable efforts to provide Staff to Client. Vendor further agrees to provide support to State/Local Vaccination sites as requested by Client.

In response to the Governor’s Proclamation of a State of Emergency dated March 4, 2020, and Executive Order N-25-20, due to current public health emergencies, the California Department of Public Health (CDPH) has determined that CDPH must take immediate action consistent with the State’s Public Contract Code (PCC) 1102.

2. Service Location

The services shall be performed at various licensed health care facilities located within the State of California.

3. Service Hours

The services shall be provided during normal Contractor working hours Monday through Friday.

Project Representatives

A. The project representatives during the term of this Agreement will be:

California Department of Public Health	Medical Solutions, LLC
Jennifer Hill, SSM II Fiscal Operations Section Telephone: (916) 552-8722 E-mail: Jennifer.Hill3@cdph.ca.gov	Kyle Hoy, Business Development Executive Telephone: (402) 986-5130 E-mail: Kyle.Hoy@medicalsolutions.com

B. Direct all inquiries to:

California Department of Public Health	Medical Solutions, LLC
Center for Health Care Quality Attention: Jennifer Hill, SSM II, FOS 1616 Capitol Avenue Sacramento, CA 95814 Telephone: (916) 552-822 E-mail: Jennifer.Hill3@cdph.ca.gov	Attention: Chris Ahl, Risk Manager Address: 1010 N. 102 nd Street, Suite 300 Omaha, NE 68114 Telephone: E-mail: Chris.Ahl@medicalsolutions.com

C. All payments from CDPH to the Contractor; shall be sent to the following address:

Remittance Address
Contractor: Medical Solutions Attention: Medical Solutions Remit
Address: PO Box 310737 Des Moines, IA 50331-0737
Phone: 1.866.833.3548
Fax: 1.866.688.5929
E-mail: remit@medicalsolutions.com

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

6. Services to be Performed

A. Please see attached Exhibit A – Attachments 1-6.

EXHIBIT A – ATTACHMENT 1

MASTER SERVICE PROVIDER AGREEMENT

This Master Service Provider Agreement (the “Agreement”) is made and entered as of the latest date of execution herein (the “Effective Date”), by and between Medical Solutions, LLC (hereafter, “COMPANY”), a Delaware limited liability company, with offices at 1010 North 102nd Street, Suite 300, Omaha, NE, 68114 and California Department of Public Health (hereafter, “CLIENT”), a _____, located at 1616 Capitol Avenue, Sacramento, CA 95814. (hereafter, “CLIENT”) COMPANY and CLIENT are each, a “Party” and, collectively, known as the “Parties”.

WHEREAS, COMPANY employs individuals and/or contracts for the provision of individuals for the purpose of providing clinical temporary staffing who have the training, experience and qualifications to provide staffing as requested by CLIENT; and

WHEREAS, CLIENT desires to contract with COMPANY for the provision of temporary clinical staffing and the management of other clinical staffing agencies, as needed, and COMPANY desires to provide such temporary staffing and agency management services to CLIENT according to the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt of sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. SCOPE:

1. TEMPORARY STAFFING SERVICES

During the Term, COMPANY agrees to provide temporary clinical staffing services to CLIENT (the “Services” and each temporary staff member provided hereunder, a “Temporary”). For the avoidance of doubt, the term “Temporary” as used herein includes employees of COMPANY and employees of SUBCONTRACTORS, unless the context otherwise requires. From time to time during the Term, the Parties will enter into written work orders, in substantially the form attached hereto as Exhibit A – Attachment 2, setting forth the specific Services to be provided to CLIENT by COMPANY, applicable bill rates for such Services, the start and end dates for such Services and any other information relevant to such Services (each, a “Work Order”). No Work Order shall be effective unless it is signed by authorized representatives of both Parties. Any amendments to this Agreement or any Work Order shall be in writing and signed by authorized representatives of both Parties in order to be effective. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, COMPANY HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES.

2. MANAGED SERVICE PROVIDER

COMPANY is the Managed Service Provider on behalf of Dignity Healthcare for the purpose of performing the Services. For purposes of this Agreement, “Managed Service Provider” means the sole staffing agency providing Temporaries to Dignity Healthcare. As such CLIENT will give preference to COMPANY for needs at Dignity Healthcare, and all open positions shall be given to COMPANY. As soon as reasonably possible after the Parties have executed any Work Order, COMPANY will locate, screen, and provide Temporaries pursuant to such Work Order. In the event COMPANY is unable to provide CLIENT with direct employees of

COMPANY, COMPANY will subcontract with another agency to fill the open position (each such subcontracted agency, a "SUBCONTRACTOR"). All SUBCONTRACTORS and employees of SUBCONTRACTORS will be held to the same standards and provisions as set forth in this Agreement and are subject to CLIENT's prior approval, which approval will not be unreasonably withheld or delayed. COMPANY will maintain complete files on each Temporary it provides to CLIENT hereunder according to guidelines established by the Joint Commission and as reasonably required by CLIENT ("Temporary Files"). COMPANY will exercise commercially reasonable efforts to maintain the completeness and accuracy of all Temporary Files pursuant to the foregoing sentence and will provide, at CLIENT's cost and expense, copies of Temporary Files to CLIENT, the Joint Commission, or other accrediting bodies upon CLIENT's request. CLIENT is not responsible for the maintenance of Temporary Files.

II. GENERAL TERMS AND CONDITIONS:

1. WORK ORDERS

COMPANY shall provide Temporaries to CLIENT who are qualified to provide services as specified in Work Order(s) entered into by the Parties under this Agreement. All Work Orders shall be subject to the terms and conditions set forth in this Agreement. In the event that any provision contained in a Work Order conflicts with any terms or conditions in this Agreement, the provisions of the Work Order shall govern.

2. INDEPENDENT CONTRACTOR

COMPANY is providing Services as an independent contractor with respect to CLIENT. This Agreement is not intended to create, and shall not be construed as creating, any relationship of agent, servant, employee, partnership or joint venture between the Parties. Except as provided herein or otherwise agreed to by the Parties in writing, neither Party shall have any authority to bind the other Party to any commitment, contract, agreement or other obligation. All Temporaries provided pursuant to this Agreement are employees of the COMPANY or employees of SUBCONTRACTORS and are not employees of CLIENT. Likewise, employees of CLIENT are not employees of COMPANY, and COMPANY assumes no responsibility with respect to such CLIENT employees.

3. TIME REPORTS & HOURS

- a. CLIENT shall review electronic time reports for each Temporary and submit to COMPANY by 3:00 pm each Monday for hours worked the previous week. Submittal of time report shall signify that CLIENT has reviewed and approves the accuracy of the itemization of hours. Should CLIENT not utilize electronic timekeeping, then each CLIENT will prepare and submit timesheets to COMPANY on a weekly basis. Prior thereto, CLIENT agrees to review each such timesheet and sign it in order to verify its accuracy. Such review shall be completed in a timely manner to enable CLIENT to fax the timesheet to COMPANY by 3:00 pm each Monday. CLIENT shall retain and provide a copy of the signed timesheets to be presented weekly with invoice(s), showing the total number of hours worked by Temporaries performing services pursuant to the applicable Work Order. CLIENT's signature shall signify that CLIENT approves the accuracy of the itemization of hours.

- b. CLIENT guarantees a minimum of 40 hours per week when 8-hour or 10-hour shifts are worked or 36 hours per week when 12-hour shifts are worked. These guaranteed hours do not include on-call or call-back hours.
- c. If CLIENT is in California, all state regulations regarding Overtime, Lunch and Rest Breaks, etc. will be adhered to by both CLIENT and COMPANY.

4. ON DUTY TRAVEL

Where travel by Temporaries while on duty is required by CLIENT, all necessary and reasonable travel related expenses incurred by COMPANY or COMPANY personnel will be billed to and/or paid by CLIENT at actual cost, unless otherwise noted in a Work Order. All known expenses will be listed in the Work Order and signed prior to start dates.

5. LAWS AND REGULATIONS

The Parties shall, and COMPANY will exercise commercially reasonable efforts to cause its SUBCONTRACTORS to, comply and cause their respective employees to comply with all applicable federal, state and local laws, rules and regulations, including, without limitation, HIPAA. The Parties shall also comply with the standards of the Joint Commission.

6. NO DISCRIMINATION

The Parties shall not discriminate against Temporaries on the basis of race, religion, color, age, sex, national origin, veteran status, disability, sexual orientation or any other legally protected status, or because any Temporary has reported or is about to report a violation or a suspected violation of law. COMPANY shall not refer to CLIENT for assignment any Temporary who is unable to perform the essential duties of the assignment or is unable to perform such duties in a manner that would not endanger the Temporary's health or safety or the health or safety of others; provided, that COMPANY may refer a Temporary to the extent such Temporary can perform the essential duties of the assignment in a safe manner if the Temporary receives reasonable accommodations.

7. POLICIES

Each Party shall, and COMPANY shall exercise commercially reasonable efforts to cause SUBCONTRACTORS to, comply with the other Party's policies and procedures that are communicated to it in writing, and COMPANY shall instruct Temporaries that they must comply with such policies and procedures of CLIENT.

8. DIRECT SUPERVISION

CLIENT shall retain all professional and administrative responsibility for the Services rendered by Temporaries pursuant to this Agreement to the extent required by law. Accordingly, CLIENT shall retain ultimate responsibility for approving policies and procedures relating to such Services and shall be responsible for managing its daily operations, including daily supervision of the Temporaries.

9. QUALIFICATIONS AND SCREENING

Each Temporary, including all Temporaries employed by SUBCONTRACTORS, referred to CLIENT by COMPANY shall be qualified for the position to which the Temporary is referred. Each Temporary selected for an assignment by CLIENT will have been thoroughly screened by COMPANY, which screening will include: valid licensure checks, criminal background checks, drug screening, certification validation, immunization records, health statements, reference checks, citizenship status and annual safety review (OSHA, TB, Joint Commission,

etc.). COMPANY's screening procedures are more fully described in Exhibit A – Attachment 5 attached hereto.

10. FLOAT

To the extent available, CLIENT agrees to float Temporaries in rotation with its own staff as staffing needs arise. CLIENT will only float Temporaries to clinical areas where the Temporary feels he/she possesses the experience, certification and/or competencies to perform the job as compliant with Joint Commission standards. CLIENT will provide appropriate orientation to Temporaries who float to new clinical areas. CLIENT understands that COMPANY has the ultimate authority to continue or remove a Temporary from a float assignment, and that the Temporary has the right to contact the COMPANY if he/she is reassigned/floated to an area in which he/she does not feel competent. If CLIENT gives a Temporary an appropriate float assignment in compliance with this Section, but the Temporary refuses to accept such float assignment even though he/she is competent in such area, CLIENT shall not be obligated to pay for any hours that were not worked by such Temporary as a result.

11. INVOICES AND PAYMENTS

COMPANY shall invoice CLIENT weekly for all Services, fees, expenses and reimbursements described in this Agreement, the rate sheet attached hereto as Exhibit B, and/or on applicable Work Order(s), as applicable. CLIENT will pay and be billed based on a Sunday through Saturday work week. CLIENT shall pay COMPANY upon receipt of invoice. Interest may be assessed against all amounts outstanding for more than 30 days at the rate of 1.5% per month or the highest rate allowed by applicable law, whichever is less. Failure to make payments when due shall render CLIENT liable for all collection costs, incurred by COMPANY in collecting overdue amounts from CLIENT hereunder. In the event that sales or use taxes are assessed on any Services delivered under any Work Order, CLIENT shall reimburse COMPANY accordingly.

12. INDEMNITY AND LIABILITY

- a. COMPANY shall indemnify, defend and hold the CLIENT, its owners, directors, officers and employees harmless from and against any and all third party claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including reasonable attorneys' fees (collectively, "Losses"), arising out of or related to the wrongful or negligent acts or omissions of (i) COMPANY, or (ii) COMPANY's employees and agents arising within the scope of their respective employment, during the Term.
- b. CLIENT shall promptly notify COMPANY in writing of any action for which CLIENT believes it is entitled to be indemnified pursuant to this Section II(13). CLIENT agrees to cooperate in good faith with COMPANY at COMPANY's sole cost and expense.

13. LIMITATIONS OF LIABILITY

IN NO EVENT WILL COMPANY OR ITS SUBCONTRACTORS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, IN EACH CASE

REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL THE AGGREGATE LIABILITY OF COMPANY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO COMPANY UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14. INSURANCE

COMPANY shall maintain a minimum level of professional liability insurance with applicable tail coverage in the amount of \$1 million per occurrence and \$3 million aggregate covering itself and its employees. COMPANY will also maintain General liability and worker's compensation insurance for itself and employees in accordance with applicable state law.

15. PERSONNEL

COMPANY, in a timely manner, shall pay Temporaries that it employs for all hours worked, including approved expenses and applicable overtime. COMPANY will pay all applicable taxes and insurance with respect to all Temporaries provided hereunder that it employs and maintain all documentation required hereunder or under applicable law for a minimum of four (4) years. COMPANY shall be considered the sole employer of Temporaries that are its employees and shall be responsible for all wages, worker's compensation insurance, unemployment or disability benefits, social security coverage or any fringe or retirement benefits to which such Temporaries are entitled.

16. IDENTIFICATION

CLIENT shall, at its own cost, provide Temporaries with identification badges identifying such Temporaries as contractors. COMPANY shall advise all Temporaries to wear the identification badges at all times when on the premises of CLIENT. COMPANY may require Temporaries to wear COMPANY identification if requested. All Temporaries will produce a photo ID upon initially reporting to CLIENT.

17. NON-SOLICITATION; NON-COMPETE

- a. Subject to Section II(18)(b) below, COMPANY agrees not to solicit or assist any third party in soliciting, any employee of CLIENT or a SUBCONTRACTOR without the express written consent of CLIENT during the Term and for a period of one (1) year thereafter; provided, that the foregoing will not prohibit CLIENT from employing any individual who applies for a position in response to an employment advertisement or other general solicitation.
- b. Notwithstanding Section II(18)(a) above, CLIENT may directly hire any Temporary by paying COMPANY pursuant to the following fee schedule: 30% of year one salary and bonus offered to Temporary. This fee will be reduced by 1% for each consecutive week Temporary is utilized as a traveler in a CLIENT facility. Furthermore, CLIENT may directly hire any Temporary without obligation to pay COMPANY a fee after two consecutive 13-week travel assignments. See example of the fee structure below:

Week

Fee

Week 0	30%
Week 13	17%
Week 26	0%

18. COMMUNICATION

CLIENT agrees to contact COMPANY and communicate any disciplinary actions, performance related issues, injuries, work-related injuries, illnesses, and exposures, incidents, depositions or lawsuits involving Temporary within one (1) business day as described in Exhibit A – Attachment 6. CLIENT agrees to initiate and/or facilitate communication with COMPANY whenever an incident/injury report related to Temporary is completed that directly involves the CLIENT, whether or not the incident results in a bad outcome for a patient or staff member. CLIENT understands that Temporary is expected to contact COMPANY whenever such an incident report is completed and that trends in poor performance resulting in incident reports may constitute disciplinary action and/or a change in job duties. CLIENT understands and agrees this communication is vital to ensure proper management of Temporaries and comply with regulatory standards. COMPANY will maintain all communications with SUBCONTRACTORS regarding any incidents listed above.

19. PERFORMANCE EVALUATION

CLIENT agrees to promptly complete and submit a written performance evaluation of Temporaries upon the completion of each contract assignment and send this evaluation to COMPANY within one week of the evaluation. Client agrees and understands these evaluations are critical to ensure proper management of Temporaries and comply with applicable regulatory standards.

20. CONFIDENTIALITY

In connection with this Agreement each Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") Confidential Information. "Confidential Information" means information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated or otherwise identified as "confidential". Without limiting the foregoing: (a) Temporary Files are the Confidential Information of COMPANY; (b) all patient records, reports and information obtained, generated or encountered relating to the Services (other than Temporary Files) are the Confidential Information of Client; and (c) the terms and conditions of this Agreement are the Confidential Information of both Parties. Confidential Information does not include information that (w) is publicly known at the time of its disclosure; (x) is lawfully received by the Receiving Party from a third party not under an obligation of confidentiality to the Disclosing Party; (y) is published or otherwise made known to the public by the Disclosing Party; or (z) was generated independently by the Receiving Party before disclosure by the Disclosing Party. The Receiving Party will refrain from using the Disclosing Party's Confidential Information except to the extent necessary to perform its obligations under this Agreement. The Receiving Party will likewise restrict its disclosure of the Disclosing Party's Confidential Information to those who have an absolute need to know such Confidential Information in order for the Receiving Party to perform its obligations under this Agreement. Such persons will be informed of and will agree to the provisions of this Section II(21), and the Receiving Party will remain responsible for any

unauthorized use or disclosure of the Confidential Information by any of them. Notwithstanding the foregoing, the Receiving Party may disclose such Confidential Information if required or requested to do so by a governmental agency, a court or administrative subpoena, an order or other legal process or requirement of law, or in order to defend its rights hereunder. If so requested or required, the Receiving Party shall (i) first notify the Disclosing Party of such request, requirement or proposal for use in defense; (ii) in the case of a required disclosure, furnish only such portion of the Confidential Information as it is advised in writing by counsel that it is legally required to disclose; and (iii) cooperate with the Disclosing Party in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to that portion of the Confidential Information that is required to be disclosed. Upon the termination of this Agreement in its entirety, and upon the written request of the Disclosing Party, each Receiving Party shall return all Confidential Information of the Disclosing Party which is in its possession or under its control.

21. COMPETENCY AND ORIENTATION

CLIENT shall provide COMPANY with information regarding CLIENT's rules, regulations, policies, procedures, physical layout, emergency protocol, emergency evacuation procedures and equipment on any unit to which the Temporary is assigned. COMPANY shall provide such information to the assigned Temporary. CLIENT will be responsible for notifying COMPANY if any Temporary is not demonstrating the requisite level of staff clinical competence during the contract period. In the event additional training on an applicable unit, setting, or area is needed, CLIENT shall provide COMPANY with such information as is necessary so that Temporaries may be appropriately oriented for such assignments.

22. COMPLAINT / GRIEVANCE PROCESS

CLIENT understands they may contact the COMPANY management to file a complaint or grievance without fear of reprisal for the complaint or grievance. COMPANY will formally respond to any complaint or grievance with a response or plan of action in a timely manner, in accordance with COMPANY'S Complaint/Grievance Process attached hereto as Exhibit A – Attachment 4.

23. TERM and TERMINATION

- a) The term of this Agreement shall commence as of the Effective Date and continue in effect for an initial period of twelve (12) months (the "Initial Term") and shall, thereafter, be subject to CLIENT's written request to COMPANY for renewal (each, a "Renewal Term" and together with the Initial Term, the "Term"), unless and until either Party provides the other Party with at least ninety (90) days' written notice of its intent to terminate this Agreement or until earlier terminated pursuant to this Section.
- b) CLIENT has the right to cancel, without penalty, any request for placement of Temporaries or signed work order, by providing written notice to COMPANY of at least ten (10) days' written notice. In the event CLIENT provides less than ten (10) days' written notice, CLIENT shall pay COMPANY a cancellation fee equal to two (2) weeks guaranteed hours at the applicable bill rate. This provision shall apply to both assignments that have not started and assignments that are currently in progress.
- c) Any individual Work Order and accompanying assignment may be cancelled for Cause immediately by notifying COMPANY and providing a written summary of

the reasons for Cause of cancellation within seventy-two (72) hours. "Cause" for removal of assigned Temporaries is limited to any of the following: gross negligence, intentional dereliction of duty, felonious criminal activity, material breach by COMPANY, and failure to meet CLIENT's standard of care and/or inability to perform duties competently which puts patient safety at risk.

- d) The termination of any individual Work Order shall not cause the Agreement to terminate.
- e) Upon the termination of this Agreement or any individual Work Order, CLIENT shall be obligated to pay for all third-party costs and expenses incurred by COMPANY prior to the effective date of termination, upon receipt of invoice relating to the terminated Work Order(s), and CLIENT shall immediately pay COMPANY an amount equal to such third-party costs and for all Services performed prior to the date of termination.
- f) If this Agreement or any Work Order is terminated for any reason other than COMPANY's material breach, or for Cause as described in 23.c, CLIENT agrees to reimburse COMPANY for any housing and/or travel related costs incurred by Company in the course of performing Services hereunder.
- g) The following Sections of Article II of this Agreement shall survive the termination of this Agreement, to the extent applicable: 1, 5, 12-13, 15, 17, 20, 22 and 23.

24. MISCELLANEOUS

- a. This Agreement shall be governed exclusively by the laws of the State of California (exclusive of its laws relating to conflicts of law). Each Party hereto submits to the jurisdiction of any state or federal court sitting in the State of California in any action or proceeding arising out of or relating to this Agreement or any of the agreements or transactions contemplated hereby and agrees that all claims in respect of the action or proceeding may be heard and determined there. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement or any of the agreements or transactions contemplated hereby in any other court. Each Party agrees that a final judgment in any action or proceeding so brought will be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or in equity.
- b. Each paragraph and provision of this Agreement is severable from the Agreement, and if one or more provisions are declared invalid, the remaining provisions shall nevertheless remain in full force and effect. The headings of sections in the Agreement are for reference only and are not to be construed in any way as part of this Agreement.
- c. Any notices provided for in this Agreement shall be given in writing and delivered either in person or by prepaid first class certified mail. All such notices shall be addressed as follows:

COMPANY:
Medical Solutions LLC
1010 North 102nd Street, Suite 300
Omaha, NE 68114

CLIENT:
California Department of Public Health

Center for Health Care Quality

Attention: Jennifer Hill, SSM II, FOS
1616 Capitol Avenue
Sacramento, CA 95814
Jennifer.hill3@cdph.ca.gov

Attn: Risk Manager

- d. CLIENT may contact the COMPANY for any emergent and non-emergent issues according to the following normal business hours: Monday-Friday, non-holidays, 8:00am – 5:00pm Central time at 1-866-633-3548, and at any other day or time through a 24/7 live agent answering service via the same number.
- e. Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement (other than CLIENT's obligation to make payments as and when due) if prevented from doing so by a cause or causes beyond its reasonable control, including, but not limited to, Acts of God or the public enemy, fires, floods, storms, riots, strikes, war or restraints of government.
- f. Except as expressly stated herein, the remedies provided to the Parties under this Agreement shall be cumulative and non-exclusive. No consent by either Party to, or waiver of, a breach by either Party shall constitute a consent to or waiver of any other different or subsequent breach by either Party.
- g. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
- h. Except as otherwise provided herein, neither Party may assign its rights or obligations under this Agreement without the other Party's prior written consent, which consent may be withheld or conditioned at the discretion of the non-assigning Party. Notwithstanding the foregoing, COMPANY may assign this Agreement, without obtaining CLIENT's prior written consent, in the event of a sale of all or substantially all its assets or a merger, consolidation or change in control of a majority of its outstanding voting interests.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their authorized agents as of the latest date of signature below.

CLIENT – California Department of Public Health

COMPANY - Medical Solutions, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**EXHIBIT A
WORK ORDER FOR**

Client Information:

Client:
Contact: (Medical Solutions)
Suite 300
Address:
City/ST/Zip:

MSP@MedicalSolutions.com

Send Invoices To: Medical Solutions, LLC

Billing Contact:
Address: 1010 N 102nd St
City/ST/Zip: Omaha, Ne 68114
Phone: 402-758-2800
Invoice Via:

Subcontracting Agency Information:

Company:
Contact:
Address:
City/ST/Zip:
Phone:

Fax:

Rate: \$ per hour for the duration of the assignment.
Overtime: \$ per hour for the duration of the assignment. Only
after 40 hours per week.
Call: \$ per hour. hour minimum on call back.
Holiday: \$ per hour for the duration of the assignment.
All Inclusive: Yes. The rate above includes all applicable housing and
travel expenses.
Term: weeks. Client has the opportunity to renew if all
parties agree.
Guaranteed Hours: hours per week. Guaranteed hours do not apply to
weeks that include orientation.
Cancellation:
Time Off:

Employee Information:

Name:
Department:
Start Date: End Date:
Shift: EOW First to Float

**If employee is going to miss a shift for any reason (illness, etc.) they MUST first notify the hospital and Agency must also notify Medical Solutions. No less than 2 hours prior to the start of the shift.



Subcontracting Agency:

Medical Solutions, LLC

N: _____ D: _____ N: _____ D: _____

California Department of Public Health:

N: _____ D: _____



EXHIBIT A – ATTACHMENT 3

**RATES FOR
EFFECTIVE DATE**

Emergency Placements may be placed in Alternate Care Sites and other locations to respond to emergent situations.	Base Rate (per Hour)
Registered Nurse: Specialty 1 (ICU, Critical Care, Emergency Department)	\$160.00 - \$180.00
Registered Nurse: Non Specialty	\$145.00 - \$165.00
Respiratory Therapist	\$130.00 - \$140.00
Pharmacist	\$135.00 - \$145.00

Overtime Multiplier for Emergency Rates

Flat Rate

This Rate Schedule is For:

NON- EMERGENCY RATE: As-Needed, Temporary Traveling Nurse Registry Personnel for California Department of Public Health

	Base Rate (per Hour)
Registered Nurse: Specialty 1 (ICU, Critical Care, Emergency Department)	\$100.00 - \$110.00
Registered Nurse: Non Specialty and Tele	\$90.00
Respiratory Therapist	\$80.00

Overtime for Non-Emergency Rates after 40 hours Multiplier

\$30.00 above reg rate

EXHIBIT A – ATTACHMENT 4

Complaint/Grievance Process Information for Clients

Clients have a right to an efficient and effective process to present and resolve complaints and grievances arising from the business relationship. This process is applicable to Clients only on an individual basis. Since most work-related common problems can be settled in conversation between you and your Client Manager, we encourage you to resolve any problems by discussing them in this manner. An earnest effort will be made to resolve problems as promptly as possible. Here is some general information about our grievance process/policy:

- A complaint/grievance that pertains to salary, wages, assignment of work or fringe benefits, bill rates, etc. is not an issue to be processed as a 'grievance,' and should be discussed with your Client Manager.
- A grievance alleging discrimination based upon race, color, gender, religion, age, sexual orientation, national or ethnic origin, disability, medical condition, veteran status or marital status shall be handled using our complaint/grievance process, as well as any other issue deemed as a grievable issue.
- A grievance should be written and should identify the basis of the dispute, including specific facts, and provide relevant documents or any other information pertinent to the matter. Grievances should also include the desired result you hope to achieve.

Timing of Documentation:

- Grievance involving suspension or termination – submitted within five working days following receipt of the suspension or termination
- Other grievance – submitted within ten business days of the grievance; if the grievance does not meet criteria and/or the defined time frames, you will be notified within five business days
- Medical Solutions, LLC will provide written response to the grievance within ten business days after receiving the grievance
- Request for additional consideration must be made within ten business days of the date of the written response from Medical Solutions, LLC

Confidentiality and Information Security Information for Clients

Employees have access to sensitive information about staff members, Clients and the staffing company. Every effort will be made to ensure that strict confidentiality and security is maintained in relation to this information inasmuch as allowed by law.

Employees have access to a database and various shared computer drives, which include information about Clients. This access may be restricted based on job description. The IT Director will have access to generic log on information for the purposes of system maintenance, repair and upkeep.

All employees receive training on ways to maintain information security, which may include:

- a. Consistent use of computer and file passwords
- b. Computer screen saver lockout after short periods of nonuse
- c. Removing sensitive information from desks/work areas when not present at the work area
- d. Keeping client files in secured areas
- e. Discussing client information in private areas and on a "need to know" basis only
- f. Utilizing open telephone intercom for non-sensitive information
- g. Utilizing closed telephone lines for sensitive information
- h. Use of the Internet for business use only

Client files may not leave the company premises.

When information security/confidentiality are in question of being violated or are violated, the following steps will be followed:

- a. A Manager and the Client will be notified as soon as possible.

- An internal inquiry will be conducted regarding the violation, to include possible and actual variables that contributed to the violation
- b. Any necessary steps to re-secure the information & prevent further violations of information security
- c. A copy of the report will be retained in the Client file.

Several ongoing activities ensure the proper maintenance of information security:

- a. Periodic evaluations of personal computers to verify passwords and the use of screen savers
- b. Ongoing, informal observation and evaluation by management of telephone etiquette & appropriateness of Client Manager to Client conversations

If personally identifiable information is collected and used/disclosed for any reason, the individual/entity will be made aware of this reason.

Client records will be kept secure to prevent tampering.

EXHIBIT A – ATTACHMENT 5

Minimum Screening Protocols for MSP Travelers

Please contact your MSP Client Manager with any questions. Advanced Practice candidates may have additional requirements.

Professional

- Resume
- Employment Application (includes education, experience, certifications, etc.)
- Skills Checklist (unit specific, updated annually)
- 2 Professional References - One MUST be from a supervisor for submitted unit within last 12 months of employment, the 2nd from a peer or supervisor within 3 years of employment
- Performance Evaluations (requested from hospital after every contract, attempt to complete at least annually)

Licensure/Certification

- Annual NURSYS verification of all licenses held (current, expired, or lapsed)
- Licensure for Midlevel Practitioners, Nursing, Respiratory Therapy and Allied Health (license currently practicing under is verified for status and disciplinary action within 30 days prior to start of each contract via primary source).
- Certification for Allied Health (ARRT, CST, etc.); verified upon hire for status and upon each subsequent contract and/or certification renewal
- Certifications, NPI and DEA for Midlevel Practitioners (upon hire) and upon renewal
- AHA BLS required for all travelers (ACLS, PALS, NRP, etc. as required by hospital and must include hands on skills testing with live instructor)

Education/Orientation

- Annual Occupational Safety and Patient Care Standards exam, completed upon hire and then annually. Course content must include:
Advance Directives, Age-Related Competency, Bloodborne Pathogens, Cultural Competency, Documentation & Risk Management, Drug-Impaired Healthcare Worker, Electrical Safety, Emergency Preparedness, End of Life Care, Fire Safety, HIPAA Standards, Joint Commission National Patient Safety Goals, Latex Sensitivity & Allergies, Medication Error Prevention, Musculoskeletal Injury Prevention, Organ & Tissue Donation, Pain Management, Patient Rights, Recognizing & Reporting Abuse (Child, Domestic, and Elder), Restraints & Seclusion, Security & Workplace Violence Prevention, Sexual Harassment, Tuberculosis Education, and Universal Precautions
- Signed RN Job Description

Background

- SSN Trace (results must be shown, all counties reported within 7 years' time must be ran)
- County Background Checks (all residences lived and worked, including travel assignments, for MINIMUM of last 7 years). Ran within 30 days of start.
- Alias AKA Names (all residences including travel assignments for MINIMUM of last 7 years). Ran for all alias names (first, last, or maiden).
- National Criminal Check (annual)
- National Sex Offender check (annual)
- FACIS® Screening (Fraud and Abuse Control Information System (upon initial hire or after a 12-month lapse in employment, will perform Level 3; for reassignments and extensions, will perform OIG/EPLS)
 - FACIS® Level 3: searches disciplinary actions taken by federal agencies (including OIG/EPLS/GSA) as well as licensing and certification agencies
 - OIG/EPLS: searches sanction information with OIG/EPLS/GSA and other federal agencies
- Sanctions Report—run by Medical Solutions monthly on all travelers. Please have all travelers sign the release at this link <https://www1.universalbackground.com/eforms/?site=E2F31CED9F4F>.
- Employment Verification (3 most recent employers)
- Education Verification (initial degree except for Midlevel Practitioners will verify highest degree)
- Other Background Checks as requested by the Hospital (example NPDB, MVR)

Identification

- Copy of IDs submitted (in accordance to USCIS regulations; at least one must verify identity). Traveler must

- also show photo ID Day 1.
- Midlevel Practitioners-copy of malpractice insurance

Health Requirements

- Drug Screen collected within 30 days of start for each contract (10 panel); if traveler is at the same facility and working for over a year a drug screen will be updated annually (includes no breaks 31 days or more).
- Hepatitis B – we accept 3 vaccine series (3), titer results or Declination form (booster or vaccines series for equivocal/negative titer if hospital requires)
- MMR – 2 vaccines or positive titers required (signed Declination form for equivocal/negative titer or booster if hospital requires)
- Varicella - 2 vaccines or positive titer required (signed Declination form for equivocal/negative titer or booster if hospital requires)
- Physical - stating the traveler is in good health and clear to work without restrictions and updated annually. Must be completed by a MD, DO, DC, PA, or NP.
- TB – TB Skin Test, TB Quant Gold or TB Spot Test (updated annually)
- Chest X-ray – for history of positive PPD, completed at time of positive ppd reading, must indicate for positive ppd, and then repeated if becomes symptomatic (Per CDC Guidelines) or per facility requirement
- MSP TB Annual Screening Form – required for all, regardless of past TB history, and **ALL** questions must be answered. If history of past positive, then updated annually.
- Influenza – vaccine required (annual) or signed declination form.

Agency Responsibility (Medical Solutions does not need a copy of these documents, but they must be on file and available immediately upon audit request)

- I-9 (documents accepted per USCIS regulations; at least one must verify identity)
- SSN Verification through E-Verify Program through the SSA (Social Security Administration) and the DHS (Department of Homeland Security); results available on first day of Employment (due to E-Verify Regulations)
- Employee Handbook Acknowledgement (or similar internal education on company policies/procedures, evaluation process, etc.)

EXHIBIT A – ATTACHMENT 6

INJURY AND ILLNESS PROCESS FOR

As noted in Section II. (18.) of the Agreement, Client associated with an Incident (“Incident” is defined as an event where a Temporary suffers a work-related injury, illness or exposure) agrees to contact Company and communicate all work-related Incidents within one (1) business day of the occurrence of the Incident. Client is also required to follow its protocol and ensure the Temporary receives immediate, appropriate treatment.

Client must also report any death, hospitalization, amputation, or other severe injury to Company within eight (8) hours.

Upon notification of the Incident, Company will generate an Incident Report and follow up with the Temporary to ensure a claim has or is being submitted with our Workers Compensation carrier; Company will also provide the claim information to the Client for their records.

Any billing related to the Incident must be addressed to Company’s Workers Compensation carrier, CCMSI; the CCMSI office contact information is listed below.

In the event of an Incident, or for any questions, contact Company’s Workers Compensation Department at WC@medicalsolutions.com or 402-986-5090.

CCMSI Billing Department

CCMSI
2 East Main Street
#208
Danville, IL 61832

CCMSI Phone Numbers

Main: 303-804-2000
Toll-Free: 888-428-4671
Fax: 303-804-2005

Exhibit B Budget Details and Payment Provisions

1. Invoicing and Payment

- A. In no event shall the Contractor require reimbursement from the State for obligations entered into 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 Time and Materials based on the hourly rate identified in this attachment under the Rates Payable provision.
- C. Invoices shall include the Agreement Number and maybe submitted electronically weekly in arrears to:

CHCQEmergencyInvoices@cdph.ca.gov

Please include Contract# 20-10869 in your email submission.

- D. Electronic Submission:
The State, at its discretion, may designate an alternate invoice submission address. A change in invoice address shall be accomplished via a written notice to the Contractor by State and shall not require an amendment to this Agreement.
- E. Invoices shall be accompanied by an itemized invoice, as identified in Attachment A – SOW and contain the following:
 - 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 expenditure claimed represent activities performed and are in accordance with Exhibit A-SOW.
 - 2) Invoices must be submitted to CDPH either electronically or in hardcopies.
 - 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 the CDPH.

F. Amounts Payable

The amounts payable under this Agreement are outlined in Exhibit A Attachments I-6 of this agreement and shall not exceed \$10,000,000.00.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

Exhibit B
Budget Details and Payment Provisions

- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

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

4. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than thirty (30) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline.

5. Expense Allowability/Fiscal Documentation

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

6. Recovery of Overpayments

- A. Contractor agrees that claims based upon the terms of this agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State by one of the following options:
 - 1) Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment;
 - 2) A repayment schedule agreeable between the State and the Contractor.

Exhibit B
Budget Details and Payment Provisions

- 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 D
Special Terms and Conditions [Rev 06-2019]

(Applicable to consultant and personal service contracts)

The provisions herein apply to this Agreement unless the provisions are removed by reference, or superseded by an alternate provision appearing in Exhibit E of this Agreement.

Index

1. Cancellation
2. Intellectual Property Rights
3. Confidentiality of Information
4. Dispute Resolution Process
5. Excise Taxes

Exhibit D Special Terms and Conditions

1. Cancellation

- A. This agreement may be cancelled by either Party **without cause** upon 30 calendar days advance written notice to the other Party.
- B. The Parties reserve the right to cancel or terminate this agreement immediately for cause.
- C. The term “for cause” shall mean that a Party fails to meet the terms, conditions, and/or responsibilities of this agreement.
- D. Agreement cancellation or termination shall be effective as of the date indicated in the cancelling Party’s notification to the other Party. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of cancellation or termination, the Parties shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early cancellation or termination, the Contractor shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this agreement.

2. Intellectual Property Rights

A. Ownership

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

Exhibit D Special Terms and Conditions

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

B. Retained Rights / License Rights

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

C. Copyright

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

Exhibit D Special Terms and Conditions

assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.

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

D. Patent Rights

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

E. Third-Party Intellectual Property

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

F. Warranties

- 1) Contractor represents and warrants that:
 - a. It is free to enter into and fully perform this Agreement.
 - b. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 - c. Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

Exhibit D Special Terms and Conditions

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

G. Intellectual Property Indemnity

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

Exhibit D Special Terms and Conditions

remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

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

H. Federal Funding

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

I. Survival

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

3. Confidentiality of Information

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

Exhibit D
Special Terms and Conditions

4. Dispute Resolution Process

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

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

5. Excise Tax

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

Exhibit E
FEMA PROVISIONS

1. 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.

The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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

2. 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 (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- C. ***Withholding for unpaid wages and liquidated damages.*** The State of California 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 (b)(2) of this section.

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

3. 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.

4. 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.

5. 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 the State of California. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of California, 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.

6. 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

Name and Title of Contractor's Authorized Official _____ Date: _____

7. 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 performanceschedule;
 - i. Meeting contract performance requirements; or
 - i. 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.

8. ACCESS TO RECORDS

The following access to records requirements apply to this contract:

- A. The Contractor agrees to provide the State of California, 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 State of California 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.

9. 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.

10. 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.

11. 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.

12. 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.