

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 22-11237	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

County of Monterey

2. The term of this Agreement is:

START DATE

July 1, 2022

THROUGH END DATE

June 30, 2025

3. The maximum amount of this Agreement is:

\$228,034.00

Two Hundred Twenty-Eight Thousand Thirty-Four Dollars and no cents.

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	2
Exhibit A, Attachment I	Work Plan	2
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit B, Attachment I	Budget	1
Exhibit C *	General Terms and Conditions	GTC 4/2017
Exhibit D	Special Terms and Conditions	19
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Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

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

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

CONTRACTOR

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

County of Monterey

CONTRACTOR BUSINESS ADDRESS

1270 Natividad Rd.

CITY

Salinas

STATE

CA

ZIP

93906

PRINTED NAME OF PERSON SIGNING

Elsa M. Jimenez

TITLE

Director of Health Services

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

SCO ID: 4265-2211237

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 22-11237	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, Suite 74.262, MS 1800, PO Box 997377

CITY

Sacramento

STATE

CA

ZIP

95899

PRINTED NAME OF PERSON SIGNING

Javier Sandoval

TITLE

Chief, Contracts Management Unit

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

**Exhibit A
Scope of Work**

1. Service Overview

The California Department of Public Health (CDPH) works to protect the public's health in the Golden State and helps shapes positive health outcomes for individuals, families and communities and to advance the health and well-being of California's diverse people and the communities. The Contractor agrees to provide the following services as described herein.

This contract provides Local Assistance funds that are specifically authorized by Assembly Bill 179 (AB 179), Item 4265-001-0001 Provisions 30 and 31 and AB179 §139 Item 4265-111-0001 Provisions 17 and 18. The funding from AB 179 is provided to increase the number of Public Health Microbiologist Trainees in the State and to support increased funding for the Lab Aspire Program, which trains and prepares qualified professionals to direct local California Public Health Laboratories.

Contractor will provide Public Health Laboratory workforce training as specified in Exhibit A, Attachment I in collaboration with the California Association of Public Health Lab Directors (CAPHLD) and the California Department of Public Health (CDPH) training programs. All training shall maintain compliance with applicable state and federal regulatory requirements including but not limited to:

Activity 1: Public Health Microbiologist / Testing Personnel training: California Code of Regulations (CCR) Title 17 § 1079-1080; Code of Federal Regulations (CFR) Title 42 § 493.1489.

Activity 2: LabAspire Public Health Laboratory Director / High-complexity Clinical Laboratory Director training: California Code of Regulations (CCR) Title 17 § 1302; Code of Federal Regulations (CFR) Title 42 § 493.1443.

2. Service Location

Services shall be performed at 1270 Natividad Rd., Salinas, CA 93906 and 850 Marina Bay Parkway, Richmond, CA, 94804.

3. Service Hours

Services shall be provided during working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official state or local holidays.

4. Project Representatives

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

California Department of Public Health Center for Laboratory Sciences Attention: Bryant Hard Telephone: (916) 363-4109 E-mail: Bryant.Hard@cdph.ca.gov	Monterey County Public Health Laboratory Donna Ferguson, Lab Director Telephone: (831) 755-4516 E-mail: FergusonD@co.monterey.ca.us
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**Exhibit A
Scope of Work**

B. Direct all inquiries to:

California Department of Public Health Center for Laboratory Sciences Attention: Yvette Urrutia-Giacalone Building P Richmond, CA, 94804 Telephone: (510) 890-2437 E-mail: yvette.urrutia-giacalone@cdph.ca.gov	Monterey County Public Health Laboratory Donna Ferguson, Lab Director 1270 Natividad Rd. Salinas, CA 93906 Attention: Donna Ferguson Telephone: (831) 755-4516 E-mail: FergusonD@co.monterey.ca.us
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C. All payments from CDPH to the Contractor shall be sent to the following address: [Note: Remittance Address must conform to the new FI\$Cal system information in order to avoid payment delays]

Remittance Address
Contractor: Monterey County Health Department/Public Health Attention "Cashier": Joe Ripley, Finance Manager Address: 1270 Natividad Road City, Zip: Salinas, 93906 Phone: (831) 796-1250 E-mail: RIPLEYJL@CO.MONTEREY.CA.US

D. Either party may make changes to the Project Representatives, or remittance address, by giving a written notice to the other party, said changes shall not require an amendment to this agreement but must be maintained as supporting documentation. Note: Remittance address changes will require the contractor to submit a completed CDPH 9083 Governmental Entity Taxpayer ID Form or STD 204 Payee Data Record Form and the STD 205 Payee Data Supplement which can be requested through the CDPH Project Representatives for processing.

5. Services to be Performed

See the attached Exhibit A, Attachment I, Work Plan for the detailed description of the services to be performed.

**Exhibit A, Attachment I
 Work Plan**

Goal: Public Health Laboratory (PHL) Workforce Training
Objective: Increase the number of board-certified California Public Health Microbiologists and Public Health Laboratory Directors
Activity: Please indicate your participation by placing an "X" in the check boxes below as applicable:

Activity I: Public Health Microbiologist Training

Activity II: LabAspire Public Health Laboratory Director Training

Please indicate within each Activity which of the milestones your local health jurisdiction will perform by placing an "X" in the appropriate check box.

Activities		Performance Indicators/Deliverables Contractor will provide biannual reports	Timeline
I.	Activity: Public Health Microbiologist Training	Requirements	
<input checked="" type="checkbox"/>	A. Milestone: Provide Public Health Microbiology (PHM) training to 2 trainees to include all of the modules recommended by the California Department of Public Health (CDPH) to prepare for state certification exams. Provide travel funding as needed for trainees to attend training modules at CDPH and/or other Public Health Laboratories. ***Must report any change in trainee status to CDPH within 5 days	Trainee(s) will be approved for PHM training by CDPH Laboratory Field Services (LFS) and vetted by the California Association of Public Health Laboratory Directors (CAPHLD) Training Committee. Contractor will be approved by LFS as a PHL Training Laboratory. <u>Public Health Microbiologist training will meet requirements of:</u> California Code of Regulations (CCR) Title 17 § 1079-1080; Code of Federal Regulations (CFR) Title 42 § 493.1489	07/01/22 to 06/30/25
<input checked="" type="checkbox"/>	B. Milestone: Provide qualified instructors for CAPHLD consortium Public Health Microbiology (PHM) training in-person and/or remote instruction. Provide travel funding as needed for instructors to teach training modules at CDPH and/or other Public Health Laboratories.	Instruction will consist of: theory and practice of pathogenic microorganism identification, laboratory methods and safety; preparation and administration of trainee lecture assignments, laboratory assignments and exams; completion of student evaluations and/or competencies. Instructor(s) will collaborate with the California Association of Public Health Laboratory Directors (CAPHLD) Training Committee and CDPH instructors and provide electronic copies of all teaching materials and evaluations to the CAPHLD Training Committee as needed to meet documentation requirements for PHM Training.	07/01/22 to 06/30/25
<input checked="" type="checkbox"/>	C. Milestone: Partner with the CAPHLD Training Committee to provide one or more of the following for CAPHLD consortium Public Health Microbiology training: supplies, equipment, software, reference books, online training access, additional instructors.	Supplies, etc. will be requested by CAPHLD Training Committee and CDPH instructors as needed to meet requirements for PHM Training.	07/01/22 to 06/30/25

**Exhibit A, Attachment I
 Work Plan**

Activities	Performance Indicators/Deliverables Contractor will provide biannual reports	Timeline
II. Activity: LabAspire Public Health Laboratory Director Training	Requirements	
<input checked="" type="checkbox"/> A. Milestone: Provide LabAspire Public Health Laboratory Director Training Fellowship(s) to qualify Fellow(s) for national board certification exams, including requirements for supervisory experience, laboratory technical experience and graduate degree. *** Report any change in Fellow status to CDPH within 30 days.	Fellowship will include (a) in-person training in managing, supervising and administering a public health laboratory; (b) salary for supervisory/management level position and/or tuition to complete academic requirements for board exam eligibility as applicable; (c) registration, travel and lodging for national board exam(s), conference(s) and training(s) as applicable; (d) training materials and supplies, including textbooks and/or online trainings. <u>LabAspire Public Health Laboratory Director / High-complexity Clinical Laboratory Director training will meet requirements of:</u> California Code of Regulations (CCR) Title 17 § 1302; Code of Federal Regulations (CFR) Title 42 § 493.1443	07/01/22 to 06/30/25

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

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

Wilfred Velasco, Contract Manager
California Department of Public Health
Division of Infectious Diseases Laboratories
850 Marina Bay Parkway, Room E-361
Richmond, CA 94804

The State, at its discretion, may designate an alternate invoice submission address. A change in the invoice address shall be accomplished via a written notice to the Contractor by the State and shall not require an amendment to this agreement.

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

E. Amounts Payable

The amounts payable under this agreement shall not exceed **\$228,034.00** in accordance with the total amount specified in Attachment I, of this Exhibit.

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

5. Expense Allowability / Fiscal Documentation

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

6. Recovery of Overpayments

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

Exhibit B
Budget Detail 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.

7. Travel and Per Diem Reimbursement

Any reimbursement for necessary travel and per diem shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (Cal HR). If the Cal HR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. No travel outside the state of California shall be reimbursed without prior authorization from the CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation. See CalHR website:

<http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>

AB 178/179 Local Assistance Contract
Public Health Microbiologist and
LabAspire Public Health Laboratory Director Workforce Training
Term: July 1, 2022 - June 30, 2025

Contractor Name Monterey County
Contract# 22-11237

Total allocation \$90,000

Personnel			
Position Title	Salary	FTE	Total
Senior Public Health Microbiologist - Rawni Lunsford (In kind services)	N/A - paid by county		\$0
Senior Public Health Microbiologist - Carlos Anaya (In kind services)	N/A - paid by county		\$0
Total Salaries and Wages		0.0	\$0
Fringe Benefits			
		Percentage	
			\$0
			\$0
Total Personnel			\$0
Operating Expenses			
			Budget
Reference books, study materials			\$4,000
In state travel to CAPHLD and other meetings			\$4,000
Out of state travel to scientific meetings, board certification exams, MPH/DrPH required travel			\$8,000
MPH/DrPH tuition			\$74,000
Total Operating Expenses			#####
Capital Expenditures			
			Budget
Total Capital Expenditures			\$0
Other Costs & Subcontracts			
			Budget
Total Subcontracts			\$0
Total Indirect Costs			
		Percentage	Budget
Total Costs			\$90,000

AB 178/179 Local Assistance Contract

Contractor Name County of Monterey

Public Health Microbiologist and

Contract# 22-11237

LabAspire Public Health Laboratory Director Workforce Training

Term: July 1, 2022 - June 30, 2025

Total allocation

\$138,034

Personnel			
Position Title	Salary	FTE	Total
PHM Trainee - [Kaylee Wehunt] or equivalent	\$41,802	1	\$41,802
PHM Trainee - [Jeelene Luna Jimenez] or equivalent	\$41,802	1	\$41,802
Total Salaries and Wages		2.0	\$83,604
Fringe Benefits			
		Percentage	
PHM Trainees - Fringe (FICA)		7.65%	\$6,396
Total Personnel			\$90,000
Operating Expenses			
			Budget
Reference books, textbooks, study materials, microbiology media, reagents and consumables - to train consortium trainees	\$15,500		\$15,500
In-state travel to trainings, scientific meetings, board exams -18	\$8,604		\$8,604
In-state travel mileage 1,450 X 0.655%	\$950		\$950
Out-of-state travel to trainings, scientific meetings, board exams			\$0
AAB board exam fees	\$480		\$480
Other training costs			\$0
Total Operating Expenses			\$25,534
Capital Expenditures			
			Budget
Total Capital Expenditures			\$0.00
Other Costs & Subcontracts			
			Budget
Total Subcontracts			\$0
Total Indirect Costs			
		Percentage	Budget
		25%	\$22,500
Total Costs			\$138,034

Exhibit D
Special Terms and Conditions

(For Subvention/Local Assistance Agreements rev 02/2022)

The provisions herein apply to this Agreement unless the provisions are removed by reference, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

Index of Special Terms and Conditions

1. Procurement Rules	11. Officials Not to Benefit
2. Equipment Ownership / Inventory / Disposition	12. Prohibited Use of State Funds for Software
3. Subcontract Requirements	13. Contract Uniformity (Fringe Benefit Allowability)
4. Income Restrictions	14. Cancellation
5. Site Inspection	
6. Intellectual Property Rights	
7. Prior Approval of Training Seminars, Workshops or Conferences	
8. Confidentiality of Information	
9. Documents, Publications, and Written Reports	
10. Dispute Resolution Process	

Exhibit D
Special Terms and Conditions

1. Procurement Rules

(Applicable to all Subvention /Local Assistance contracts in which equipment, property, commodities and/or supplies are furnished by CDPH or expenses for said items are reimbursed with state or federal funds.)

A. Equipment definitions

Wherever the term equipment /property is used, the following definitions shall apply:

1. **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$2,500 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
2. **Minor equipment/property:** A tangible item having a base unit cost of **less than \$2,500** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.

B. Government and public entities (including state colleges/universities and auxiliary organizations), whether acting as a contractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through g of this provision. Paragraph c of this provision shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

C. Nonprofit organizations and commercial businesses, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

1. Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate CDPH Program Contract Manager to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with CDPH. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH Program Contract Manager, in writing, of an alternate delivery address.

Exhibit D
Special Terms and Conditions

2. All equipment purchases are subject to paragraphs d through g of this provision. Paragraph b of this provision shall also apply if equipment purchases are delegated to subcontractors that are either a government or public entity.
3. Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
 - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
 - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open and free competition.
 - (c) Procurements shall be conducted in a manner that provides for all of the following:
 - I. Avoid purchasing unnecessary or duplicate items.
 - II. Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - III. Take positive steps to utilize small and veteran owned businesses.
- D. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase **exceeding** \$2,500 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- E. In special circumstances determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
- F. The Contractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor at any time.

Exhibit D
Special Terms and Conditions

- G. For all purchases, the Contractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor for inspection or audit.

2. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or property is furnished by CDPH and/or when said items are purchased or reimbursed with State and Federal funds (absence a Federal requirement for transfer of title))

- A. Wherever the terms equipment and/or property are used in this provision, the definitions in provision 1, paragraph A., shall apply.

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

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

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

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

(a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.

Exhibit D
Special Terms and Conditions

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

G. Motor Vehicles

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under this Agreement.)

1. If motor vehicles are purchased/reimbursed or furnished by CDPH under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this

Exhibit D
Special Terms and Conditions

Agreement, the Contractor shall return such vehicles to CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.

2. If motor vehicles are purchased/reimbursed or furnished by CDPH under the terms of this Agreement, **the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner.** The Contractor shall only use said vehicles for the performance under the terms of this Agreement.
3. The Contractor agrees that all operators of motor vehicles, purchased/reimbursed or furnished by CDPH under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
4. If any motor vehicle is purchased/reimbursed or furnished by CDPH under the terms of this Agreement, the Contractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement to the Contractor.
- (b) The Contractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.
- (c) The Contractor agrees that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.
- (d) The Contractor agrees to provide at least thirty (30) days prior to the expiration date of said insurance coverage a copy of a new certificate of insurance evidencing continued coverage, as indicated herein for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

Exhibit D
Special Terms and Conditions

- (e) The Contractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
- I. The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State.
 - II. The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
 - III. The insurance carrier shall notify CDPH in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by CDPH, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor fails to keep insurance coverage as required herein in effect at all times during vehicle possession, CDPH may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

3. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- A. Prior written authorization by the State is required before the Contractor enters into or is reimbursed for any subcontract for services exceeding \$2,500 for any articles, supplies, equipment, or services. The Contractor shall obtain and submit articles of at least three complete quotations or adequate justification for the absence of bidding.
- B. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

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1. Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.
- C. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) exceeding \$2,500 are subject to the prior review and written approval of CDPH.
- D. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- E. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- F. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- G. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement and shall be the subcontractor's sole point of contact for all matters related to the performance and payment during the term of this Agreement.
- H. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

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

4. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to CDPH, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by CDPH under this Agreement.

5. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to

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inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the services performed.

6. 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 hereafter 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.
 - (a) 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.
3. 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

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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.

4. 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.
5. 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

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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 Paragraph A, subparagraph 2.(a) of this provision] 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 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., 2014, 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 Section 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

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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 Section 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 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.
- (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.

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(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

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

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

H. Survival

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

7. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior CDPH approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor in order to conduct routine business matters.

8. Confidentiality of Information

The Contractor and its employees, agents, or subcontractors shall:

- a. 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. Not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. Promptly transmit to the CDPH Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. 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

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written authorization from the CDPH 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.

9. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

10. Dispute Resolution Process

- A. 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.
 - 1. 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 CDPH 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 CDPH Program Branch Chief shall render a decision within ten (10) business days after receipt of the written grievance from the Contractor. The CDPH Program Branch Chief shall respond in writing to the Contractor indicating the decision and reasons, therefore. If the Contractor disagrees with the CDPH Program Branch Chief's decision, the Contractor may appeal to the second level.
 - 2. When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with CDPH Program Branch Chief's decision. The

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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 CDPH Program Branch Chief's decision. The appeal shall be addressed to the CDPH Deputy Director of the division in which the branch is organized within ten (10) business days from receipt of the CDPH Program Branch Chief's decision. The CDPH 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 CDPH Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) business days of receipt of the Contractor's second level appeal.

- B. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Division 2, Chapter 2, Article 3 (commencing with Section 1140) of the California Code of Regulations).
- C. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22 Division 2, Subdivision 2, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22 Division 3, Subdivision 1, Chapter 3, California Code of Regulations.
- D. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Contract Manager.
- E. 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 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.

11. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

12. Prohibited Use of State Funds for Software

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Contractor certifies that 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.

13. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, CDPH sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

A. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

B. As used herein, fringe benefits do not include:

1. Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training
2. Director's and executive committee member's fees
3. Incentive awards and/or bonus incentive pay
4. Allowances for off-site pay
5. Location allowances
6. Hardship pay
7. Cost-of-living differentials

C. Specific allowable fringe benefits include:

1. Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

D. To be an allowable fringe benefit, the cost must meet the following criteria:

1. Be necessary and reasonable for the performance of the Agreement.
2. Be determined in accordance with generally accepted accounting principles.
3. Be consistent with policies that apply uniformly to all activities of the Contractor.

E. Contractor agrees that all fringe benefits shall be at actual cost.

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Special Terms and Conditions

F. Earned/Accrued Compensation

1. Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See section F.3.A. below for an example.
2. For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision F.3.B. for an example.
3. For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision F.3.C. for an example.

A. Example No. 1:

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

B. Example No. 2:

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

C. Example No. 3:

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to CDPH, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

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14. Cancellation

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

Exhibit E
Additional Provisions

1. Insurance Requirements

A. General Provisions Applying to All Policies

1. Coverage Term – Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the Agreement, a new certificate and required endorsements must be received by the State at least ten (10) business days prior to the expiration of this insurance. Any new insurance must comply with the original Agreement terms.
2. Policy Cancellation or Termination and Notice of Non-Renewal – Contractor shall provide to the CDPH within five (5) business days following receipt by Contractor a copy of any cancellation or non-renewal of insurance required by this Contract. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the CDPH may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
3. Premiums, Assessments and Deductibles – Contractor is responsible for any premiums, policy assessments, deductibles or self-insured retentions contained within their insurance program.
4. Primary Clause – Any required insurance contained in this Agreement shall be primary and not excess or contributory to any other insurance carried by the CDPH.
5. Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least “A–” with a financial category rating of no lower than VI. If Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
6. Endorsements – Any required endorsements requested by the CDPH must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
7. Inadequate Insurance – Inadequate or lack of insurance does not negate Contractor’s obligations under the Agreement.
8. Use of Subcontractors - In the case of Contractor’s utilization of Subcontractors to complete the contracted scope of work, Contractor shall include all Subcontractors as insured under Contractor’s insurance or supply evidence of the Subcontractor’s insurance to the CDPH equal to policies, coverages, and limits required of Contractor.

Exhibit E
Additional Provisions

B. Insurance Coverage Requirements

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

1. Commercial General Liability – Contractor shall maintain general liability with limits not less than \$1,000,000 per occurrence for bodily injury and property damage combined with a \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent Contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to Contractor’s limit of liability. The policy shall be endorsed to include, “The State of California, its officers, agents and employees, are included as additional insured, but only with respect to work performed for the state of California under this agreement.” This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
2. Automobile Liability (when required) – Contractor shall maintain motor vehicle liability insurance with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Agreement involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required. The policy shall be endorsed to include, “The State of California, its officers, agents and employees, are included as additional insured, but only with respect to work performed for the state of California under this agreement.” This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
3. Worker’s Compensation and Employer’s Liability (when required) – Contractor shall maintain statutory worker’s compensation and employer’s liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer’s liability limits of \$1,000,000 are required. When work is performed on State owned or controlled property the policy shall contain a waiver of subrogation endorsement in favor of the State. This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.
4. Professional Liability (when required) – Contractor shall maintain professional liability covering any damages caused by a negligent error act or omission with limits not less than \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy’s retroactive date must be displayed on the certificate of insurance and must be before the date this Agreement was executed or before the beginning of Agreement work.

Exhibit E
Additional Provisions

5. Environmental/Pollution Liability (when required) – Contractor shall maintain pollution liability for limits not less than \$1,000,000 per claim covering Contractor’s liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site as well as transportation and proper disposal of hazardous materials. The policy shall be endorsed to include, “The State of California, its officers, agents and employees, are included as additional insured, but only with respect to work performed for the state of California under this agreement.” This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

6. Aircraft Liability (when required) - Contractor shall maintain aircraft liability with a limit not less than \$3,000,000. The policy shall be endorsed to include, “The State of California, its officers, agents and employees, are included as additional insured, but only with respect to work performed for the state of California under this agreement.” This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

Contractor's Release

Instructions to Contractor:

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

Submission of Final Invoice

Pursuant to **contract number** 22-11237 entered into between the California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via **invoice number(s)** _____, in the **amount(s) of \$** _____ and **dated** _____.
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

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

Repayments Due to Audit Exceptions / Record Retention

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

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

Recycled Product Use Certification

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

Reminder to Return State Equipment/Property (If Applicable)

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

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

Patents / Other Issues

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

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

Contractor's Legal Name (as on contract): County of Monterey

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

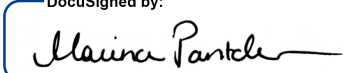
Distribution: Accounting (Original) Program

County of Monterey Signature Page
CDPH CAPHLD, CHEAXC, and HERO
Agreement [22-11237](#)
Term: July 1, 2022, through June 30, 2025

COUNTY OF MONTEREY

**Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel**

**Approved as to Fiscal Provisions
Auditor/Controller**

DocuSigned by:

By: _____
Deputy County Counsel
65EE9F1502BD412...

DocuSigned by:

By: _____
Auditor/Controller
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Date: 7/6/2023 | 11:00 AM PDT

Date: 7/6/2023 | 3:08 PM PDT