

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

26-10274

PURCHASING AUTHORITY NUMBER (If Applicable)

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

tbd

2. The term of this Agreement is:

START DATE

January 4, 2027 or upon DGS approval, whichever is later

THROUGH END DATE

December 31, 2029

3. The maximum amount of this Agreement is:

\$600,000 (Six hundred thousand dollars and zero cents)

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

Exhibits	Title	Pages
Exhibit A	Scope of Work	8
Exhibit B	Budget Detail and Payment Provisions	4
Exhibit B-1	Cost Proposal	2
Exhibit C *	General Terms and Conditions	--
Exhibit D	Special Terms and Conditions	10
Exhibit E	Additional Provisions	10
Exhibit F	Contractor's Release	1

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.)

CONTRACTOR BUSINESS ADDRESS

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

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AGREEMENT NUMBER

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PURCHASING AUTHORITY NUMBER (If Applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

1616 Capitol Ave, MS 1802

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Ravi Ayer

TITLE

Chief, Centralized Contract Services Unit

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A – Scope of Work

1. Service Overview

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

The California Department of Public Health (CDPH) is soliciting proposals from firms that are able to provide scientific, analytical, and technical support to the Department for the development of regulations required under Health and Safety Code § 104662(b). The contractor will assist the Department in conducting policy and scientific reviews, developing transparent evidence evaluation methods, and modeling the potential impacts of regulatory decisions related to restricted school foods and ultraprocessed foods of concern.

All work conducted under contract shall support the Department in ensuring that regulatory determinations are informed by the policy and regulatory landscape and guided by a rigorous examination of reputable peer-reviewed scientific evidence. Activities will be concentrated in the first contract year ensuring that key evidence review and foundational activities align with the AB 1264 timeline. Provided deadlines are expressed relative to the contract start date.

Proposals must address all of the services described in Exhibit A entitled, "Scope of Work".

CDPH intends to make a single contract award to the most responsive and responsible firm offering the highest scoring bid. This procurement is open to all eligible firms and/or individuals that meet the qualification requirements, including commercial businesses, nonprofit organizations, State or public universities (including auxiliary organizations) and other entities.

2. Service Location

The services shall be performed at designated contractor working space, either contractor office or designated telework location.

3. Service Hours

The services shall be provided during normal contractor working hours from 8:00 AM to 5:00 PM, Monday through Friday, with availability for meetings between 8:00 AM and 3:00 PM Pacific Time.

4. Project Representatives

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

California Department of Public Health [Enter Name of CDPH Contract Manager] Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail: XXXXXXX@cdph.ca.gov	[Enter Contractor Name] [Enter Name of Contractor's Contract Manager] Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail: XXXXXXX@XXXXXXX
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B. Direct all inquiries to:

California Department of Public Health Section or Unit Name Attention: [Enter name, if applicable] Mail Station Code XXXX Street address, room/suite number P.O. Box Number e.g., 997413 City, CA, Zip Code e.g., 95899-7413 Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail: XXXXXXX@cdph.ca.gov	[Enter Contractor Name] Section or Unit Name (if applicable) Attention: [Enter name, if applicable] Street address & room number, if applicable P.O. Box Number (if applicable) City, State, Zip Code Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX E-mail: XXXXXXX@XXXXXXX
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C. All payments from CDPH to the Contractor; shall be sent to the following address:

Remittance Address Contractor: Attention "Cashier" : [Enter name, if applicable] Address City, Zip Phone Fax Email
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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; however, if the remittance address has changed, the Contractor will be required to submit a completed STD 204 Payee Data Record form and, if necessary, STD 205 Payee Data Supplement, which must match the invoice address in order to avoid payment delays.

5. Progress Reports or Meetings

- A. Contractor shall submit progress reports or attend meetings with state personnel at intervals determined by CDPH to determine if the Contractor is on the right track, whether the project is on schedule, provide communication of interim findings, and afford occasions for airing difficulties or special problems encountered so that remedies can be developed quickly.
- B. At the conclusion of this agreement and if applicable, Contractor shall hold a final meeting at which Contractor shall present any findings, conclusions, and recommendations. If required by this agreement, Contractor shall submit a comprehensive final report.

6. Services to be Performed

Goal 1: Develop Evidence Assessment and Decision Frameworks

The contractor shall assist the Department in developing transparent methods for evaluating scientific evidence and informing regulatory determinations.

A. Objective 1: Develop options for evidence assessment, evidence integration, and regulatory decision frameworks.

Tasks:

- 1) Review established evidence assessment frameworks used in regulatory science and public health evidence evaluation.
- 2) Develop options for structured evaluation of the quality, relevance, and strength of scientific evidence.
- 3) Develop options or provide recommendations for weighting and integrating reviewed evidence across study designs and levels of certainty.
- 4) Recommend approaches for documenting and translating evidence, weighting decisions, and scientific uncertainty into rationale for regulatory determinations.
- 5) Facilitate consultation sessions with Department staff.

Deliverables:

- 1) Landscape review of regulatory evidence assessment frameworks

- 2) Comparative framework options and evaluation matrix
- 3) Evidence assessment and integration framework
- 4) Regulatory decision and documentation protocol for food classification categories
- 5) Framework demonstration (1-3 representative additives or substances)
- 6) Consultation workshops with Department staff

Performance Measures:

- 1) Deliver a landscape review of regulatory evidence assessment frameworks within 2 months.
- 2) Deliver options and evaluation matrix within 2 months.
- 3) Deliver an evidence assessment and integration framework within 8 months.
- 4) Deliver a regulatory decision and documentation protocol within 8 months.
- 5) Deliver a framework demonstration within 1 month following the delivery of items 1-4 during one of at least two consultation workshops/webinars for Department staff.

Goal 2: Assess the Policy and Regulatory Landscape

The contractor shall conduct a comprehensive review of relevant policies and regulatory approaches governing ultraproprocessed foods, hyperpalatable foods, food additives, and school food standards.

A. Objective 2: Identify and analyze federal, state, and international policy frameworks relevant to ultraproprocessed foods and school food environments.

Tasks:

- 1) Conduct structured searches of regulations and policies.
- 2) Identify relevant regulatory frameworks addressing ultraproprocessed foods, hyperpalatable foods, and food additives.
- 3) Review school nutrition policies affecting food procurement and composition in California.

- 4) Develop a comparative analysis of policy mechanisms used by other federal, state, and international jurisdictions.

Deliverables:

- 1) Policy landscape review report
- 2) Annotated inventory of policies and regulations
- 3) Comparative policy matrix summarizing regulatory approaches
- 4) Policy briefing presentation for Department staff

Performance Measures:

- 1) Submission of written report within 4 months.
- 2) Delivery of the briefing to Department staff within 1 month following the completion of the written report.

Goal 3: Conduct Scientific Literature Reviews

The contractor shall conduct rigorous reviews of peer-reviewed scientific literature related to health harms associated with hyper palatability and ultraprocessed foods.

- A. Objective 3.1: Conduct an evidence map to identify areas of existing research, gaps and inconsistencies within the literature, and highlight priority areas.**
- B. Objective 3.2: Conduct structured or systematic literature reviews examining relationships between ultraprocessed foods, hyperpalatable foods, and health outcomes.**
- C. Objective 3.3: Conduct structured or systematic literature reviews examining relationships between modified foods (e.g. high saturated fat, sugar and salt) and health outcomes.**

Tasks:

- 1) Develop literature search protocols and inclusion criteria.
- 2) Conduct searches in scientific databases.
- 3) Screen studies and extract relevant information.
- 4) Evaluate strength, quality, and consistency of evidence across studies.
- 5) Prepare summaries describing health effects and mechanisms.

Deliverables:

- 1) Evidence map of the literature on UPFs and modified foods
- 2) Scientific literature review report
- 3) Evidence tables summarizing study characteristics and findingsAnnotated bibliography of peer-reviewed studies
- 4) Technical briefing presentation for Department staff

Performance Measures:

- 1) Deliver an evidence map within 3 months.
- 2) Delivery of a literature review report within 8 months.
- 3) Provide a technical briefing within 1 month of completion of deliverables 1-3 above.

Goal 4: Model Potential Impacts of Regulatory Decisions

The contractor shall develop analytical models to estimate the potential impacts of regulatory definitions and thresholds on school foods and student nutrition.

A. Objective 4: Develop analytical models to evaluate potential regulatory scenarios as derived from criteria.

Tasks:

- 1) Identify and obtain relevant food composition databases, procurement data, or school nutrition program data sources.
- 2) Develop modeling framework for evaluating regulatory scenarios including required criteria established by AB 1264.
- 3) Conduct scenario analysis for multiple regulatory options and estimate impacts on:
 - a. number and types of foods affected
 - b. composition of school meals
 - c. macronutrient intake per week among students
 - d. operational implications for school meal preparation.

Deliverables:

- 1) Modeling methodology and coding documentation
- 2) Analytical modeling report
- 3) Scenario analysis results
- 4) Data visualizations and presentations

Performance Measures:

1. Development of at least three regulatory scenarios.
2. Completion of modeling report within 18 months.

Goal 5: Provide Technical Consultation and Program Support

The contractor shall provide ongoing consultation and analytical support to the Department throughout the contract period.

A. Objective 5: Administrative and consultation tasks.

Tasks:

- 1) Participate in biweekly project meetings with Department staff.
- 2) Participate in consultation calls with internal and external stakeholders.
- 3) Provide up to 10 written technical memoranda addressing emerging questions.
- 4) Submit at least quarterly reimbursement invoices and written quarterly progress reports (template supplied by CDPH) that detail progress on items in the SOW.
- 5) Complete and revise as required all necessary paperwork, monitor budgets, prepare and revise Scopes of Work, timelines, presentations and other forms and procedures required by CDPH.

Deliverables:

- 1) Technical memoranda
- 2) Meeting summaries and briefing materials
- 3) Presentations for Department staff

Performance Measures:

- 1) Participation in biweekly project meetings.
- 2) Delivery of requested memoranda.

7. Deliverable Acceptance Criteria

All deliverables submitted under this contract shall meet the following standards:

- 1) Deliverables must be complete, accurate, and responsive to the tasks described in this scope of work.

- 2) Written reports must be clearly organized and suitable for use in regulatory development.
- 3) Analytical methods must be transparent and reproducible, including documentation of assumptions and data sources.
- 4) Deliverables must be submitted in formats specified by the Department (e.g., Word, PDF, spreadsheet, or presentation format).
- 5) The Department will review deliverables and provide feedback within 30 days of submission. The contractor must revise deliverables as needed to address Department comments.

EXHIBIT B – BUDGET DETAILS 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 Cost Proposal specified in Attachment 6, of this Exhibit.
- C. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

[Name of a program person who will receive invoices]

California Department of Public Health

[Enter Program name]

[Enter MS Code unless it does not apply]

[Enter street address, room/suite number or P.O. Box number]

[Enter City, CA and Zip Code or P.O. Box Zip Code (if applicable)]

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.

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.
- 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.
- 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.
- 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

No travel shall be reimbursed under this agreement.

8. Prime Contractor DVBE Certification Optional Provision (This provision is required when the Prime Contract has identified a DVBE subcontractor or supplier will be utilized during the term of the agreement)

Pursuant to the Military and Veterans Code section 999.7 all state departments must withhold \$10,000, or full final payment if it values less than \$10,000.00, from a prime contractor's final payment until CDPH receives a fully completed and accurate STD 817 Prime Contractor's Certification - DVBE Subcontractor Report.

Contracts entered into on or after January 1, 2021, ten thousand dollars (\$10,000) from the final payment, or the full final payment if less than ten thousand dollars (\$10,000), until a prime contractor complies with the certification requirements of subdivision (d) of Section 999.5. A prime contractor that fails to comply with the certification requirement shall, after notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of notice, the prime contractor refuses to comply with the certification requirements, the awarding department shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000). For contracts awarded for use by multiple state agencies, the Department of General Services may prescribe additional or alternative mechanisms for enforcing the certification requirement

Upon completion of an awarded contract for which a commitment to achieve a disabled veteran business enterprise goal was made, an awarding department shall require the prime contractor that entered into a subcontract with a disabled veteran business enterprise to certify to the awarding department all of the following:

- A. The total amount the prime contractor received under the contract.
- B. The name and address of the disabled veteran business enterprise that participated in the performance of the contract and the contract number.
- C. The amount and percentage of work the prime contractor committed to provide to one or more disabled veteran business enterprises under the requirements of the contract and the amount each disabled veteran business enterprise received from the prime contractor.
- D. That all payments under the contract have been made to the disabled veteran business enterprise. Upon request by the awarding department, the prime contractor shall provide proof of payment for the work.

EXHIBIT B-1 - COST PROPOSAL

SERVICE	FISCAL YEAR 1 01/04/2027 -06/30/27	FISCAL YEAR 2 07/01/27- 02/29/28	FISCAL YEAR 3 07/01/28- 06/30/29	FISCAL YEAR 4 07/01/29- 12/31/29	
Objective 1: Develop options for evidence assessment, evidence integration, and regulatory decision frameworks.					
Objective 2: Identify and analyze federal, state, and international policy frameworks relevant to ultraprocessed foods and school food environments.					
Objective 3.1: Conduct an evidence map to identify areas of existing research, gaps and inconsistencies within the literature, and highlight priority areas.					
Objective 3.2: Conduct structured or systematic literature reviews examining relationships between ultraprocessed foods, hyperpalatable foods, and health outcomes.					
Objective 3.3: Conduct structured or systematic literature reviews examining relationships between modified foods (e.g. high saturated fat, sugar and salt) and health outcomes.					
Objective 4: Develop analytical models to evaluate potential regulatory scenarios as derived from criteria.					
Objective 5: Administrative and consultation tasks.					
TOTAL YEARLY COSTS	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

1. CDPH has allocated \$600,000.00 for this contract. Any proposals exceeding this amount will be deemed non-responsive and will not be considered for award. See the Solicitation for Request for Proposal (RFP) 26-10274 for more details.
2. The Contractor understands that the rates must be fully burdened, including but not limited to, operating expenses, labor, equipment costs, supplies, overhead, annual inflation costs/rate adjustments, profit margin, taxes, etc.
3. This agreement is deliverables-based, as specified in Section H of the Solicitation for RFP 26-10274 and State Contracting Manual Volume 1, Section 7.30.
4. Failure to sign this Cost Proposal may lead to a Proposal being deemed "non-responsive."

Name

Title of Authorized Representative

Signature

EXHIBIT C – GENERAL TERMS AND CONDITIONS (GTC 02/2025)

General Terms and Conditions can be viewed at <https://www.dgs.ca.gov/-/media/Divisions/OLS/Resources/GTC-Updates/GTC-225-February-2025.pdf>.

EXHIBIT D – SPECIAL TERMS AND CONDITIONS

1. 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 cancellation or termination 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 cancellation or termination, the Contractor 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.
- 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 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 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.
- 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 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.

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

6. Force Majeure

Neither the Contractor nor the State shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this paragraph, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

7. Executive Order N-6-22 - Economic Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that

are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

Prior to awarding and executing contracts, the State shall conduct its due diligence to determine if the proposed awardee is a named individual or entity on federal and any state Economic Sanctions lists. If the proposed awardee is listed, the State shall refrain from entering into the Contract. Resources for locating names of sanctioned individuals and entities are available on the DGS Office of Legal Services' webpage: [Ukraine-Russia \(ca.gov\)](https://dgs.ca.gov/office-of-legal-services/ukraine-russia).

If this Agreement is valued at \$5 million or more, upon execution the State will send a separate notification outlining additional requirements specified under the EO. Compliance with this Economic Sanctions imposed in response to Russia's actions in Ukraine is required, including with respect to, but not limited to, the federal executive orders identified in the EO and the sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctionsprograms-and-country-information/ukraine-russia-related-sanctions>). Failure to comply may result in the termination of this Agreement.

EXHIBIT E – ADDITIONAL PROVISIONS

1. Use of Disabled Veteran Business Enterprises (DVBE)

- A. The State Legislature has declared that a fair portion of the total purchases and contracts or subcontracts for property and services for the State be placed with disabled veteran business enterprises.
- B. All DVBE participation attachments, however labeled, completed as a condition of bidding, contracting, or amending a subject agreement, are incorporated herein and made a part of this agreement by this reference.
- C. Contractor agrees to use the proposed DVBEs, as identified in previously submitted DVBE participation attachments, unless the Contractor submits a written request for substitution of a like or alternate subcontractor. All requests for substitution must be approved by CDPH, in writing, prior to using a substituted subcontractor.
- D. Requests for substitution must be approved by the program funding this agreement and must include:
 - 1) A written explanation of the reason for the substitution.
 - 2) A written description of the business enterprise that will be substituted, including its DVBE certification status.
 - 3) If applicable, the reason a non-DVBE subcontractor is proposed for use.
 - 4) A written description of the work to be performed by the substituted subcontractor and an identification of the percentage share/dollar amount of the overall contract that the substituted subcontractor will perform.
- E. If requested by CDPH, Contractor agrees to provide verification, in a form agreed to by CDPH, that DVBE subcontractor participation under this agreement is in compliance with the goals specified at the time of contract award or in an applicable amendment.

2. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4) and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

3. Performance Evaluation

- A. The Contractor's performance under this agreement shall be evaluated at the conclusion of the term of this agreement. The evaluation shall include, but not be limited to:
- 1) Whether the contracted work or services were completed as specified in the agreement, and reasons for and amount of any cost overruns.
 - 2) Whether the contracted work or services met the quality standards specified in the agreement.
 - 3) Whether the Contractor fulfilled all requirements of the agreement.
 - 4) Factors outside the control of the Contractor, which caused difficulties in contractor performance. Factors outside the control of the Contractor shall not include a Subcontractor's poor performance.
- B. The evaluation of the Contractor shall not be a public record (PCC 10370).

4. Prohibited Follow-on Contracts

- A. No person, firm, or subsidiary awarded a consulting services agreement is prohibited from submitting a bid or being awarded an agreement for services or goods suggested, in the end product of the awarded consulting services agreement
- B. Paragraph A does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services agreement which totals no more than ten 10% percent of the total monetary value of the consulting services agreement.
- C. Paragraphs A and B do not apply to services agreements subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.(Contract with Private architects, engineering, land surveying and contraction project management firms).

5. Insurance Requirements

Contractor shall comply with the following 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) 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.

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, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." 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, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." 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.

- 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, employees, and servants as additional insured, but only insofar as the operations under this Agreement are concerned." 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, employees and servants as additional insured, but only insofar as the operations under this Agreement." This endorsement must be supplied under form acceptable to the Office of Risk and Insurance Management.

6. Use of Small Business Subcontractors

- A. All Non-Small Business Subcontractor Preference Request attachments and Small Business Subcontractor/Supplier Acknowledgment attachments, however labeled, completed as a condition of bidding, are incorporated herein and made a part of this agreement by this reference.
- B. Contractor agrees to use each small business subcontractor/supplier, as identified in previously submitted Non-Small Business Subcontractor Preference Request attachments, unless the Contractor submits a written request for substitution of a like or alternate subcontractor. All requests for substitution must be approved by CDPH, in writing (including email or fax), prior to using a proposed substitute subcontractor.
- C. Requests for substitution must be approved by the funding program and must include, at a minimum:
 - 1) An explanation of the reason for the substitution.
 - 2) A written description of the business enterprise that will be substituted, including its small business certification status.

- 3) If substitution of an alternate small business does not occur, include a written justification and description of the steps taken to try to acquire a new small business and how that portion of the contract will be fulfilled.
 - 4) A written description of the work to be performed by the substituted subcontractor identified by both task (if applicable) and dollar amount or percentage of the overall contract that the substituted subcontractor will perform. The substituted business, if approved, must perform a commercially useful function in the contract pursuant to Title 2, California Code of Regulations § 1896.6.
- D. CDPH may consent to the substitution in any of the situations set forth in Public Contract Code Section 4107 of the Subletting and Subcontracting Fair Practices Act.
- E. Prior to the approval of the prime contractor's request for the substitution, the funding program shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and the reasons for the request to substitute. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor that has been so notified shall have five (5) working days after the receipt of the notice to submit written objections to the substitution to the funding program. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution. If written objections are filed, CDPH shall give notice in writing of at least five (5) working days to the listed subcontractor of a hearing by CDPH on the prime contractor's request for substitution.
- F. Failure of the contractor to subcontract with the small businesses listed in its bid or proposal to CDPH, or failure to follow applicable substitution rules and regulations may be grounds for the Department of General Services to impose sanctions pursuant to Government Code Section 14842.5 and Title 2, California Code of Regulations § 1896.16. In the event such sanctions are to be imposed, the Contractor shall be notified in writing and entitled to a hearing pursuant to Title 2, California Code of Regulations § 1896.18 and § 1896.20.
- G. If requested by CDPH, Contractor agrees to provide documentation/verification, in a form agreed to by CDPH, that small business subcontractor usage under this agreement complies with the commitments specified during the contractor selection process

7. Incorporation of Proposal or Bid

The Contractor's proposal or bid is not attached hereto but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor's proposal or bid, this Agreement shall be controlling.

8. Site Inspection

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

9. Subcontract Requirements

- A. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services exceeding \$5,000 for any articles, supplies, equipment, or services. The Contractor shall obtain at least three complete quotations which should be submitted or adequate justification provided 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.
 - 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 \$5,000 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."

10. Documents, Publications and Written Reports

Any document, publication or written report (excluding progress reports, financial reports and normal contract 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 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.

11. Procurement Rules

Contractor shall not use State funds allocated under this Agreement to purchase equipment. As used in this paragraph, "equipment" means an article of nonexpendable, tangible property, including furniture, having a useful life of at least one (1) year and a unit cost of five thousand dollars (\$5,000) or more.

12. Equipment Ownership / Inventory / Disposition

- A. Wherever the terms equipment and/or property are used under this provision, the definitions in Provision 12, 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 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.
 - 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 and/or Subcontractor 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.

In administering this provision, CDPH may require the Contractor and/or Subcontractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or property. Contractor and/or Subcontractor 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.

13. Prohibited Use of State Funds for Software

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.

EXHIBIT F – 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** 26-10274 entered into between the State of 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 TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): _____

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

CDPH Distribution: Accounting (Original) Program