

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

Second Amendment

THIS AMENDMENT (this “Amendment”) is made as of **4th day of May** in San Francisco, California, by and between **Color Genomics, Inc.** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

Recitals

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to expand the COVID-19 testing program; and

NOW, THEREFORE, Contractor and the City agree as follows:

Article 1 Definitions

The following definitions shall apply to this Amendment:

1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated April 6, 2020 between Contractor and City and Formal Modification No. 1 dated April 20, 2020;

1.2 **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

Article 2 Modifications to the Agreement.

The Agreement is hereby modified as follows:

2.1 **LOU, Section 10 (SUBCONTRACTS)** currently reads as follows at the last sentence: “At time of signing, Color is sub-contracting clinical staffing, onsite logistics, and site collection logistics and operations for SF Pier 30/32 Site #1 only.” Section 10, last sentence, is revised in its entirety as follows:

Section 10 (SUBCONTRACTS), last sentence: At time of signing, Color is sub-contracting clinical staffing, onsite logistics, mobile testing, and site collection logistics and operations for SF Pier 30/32 Site #1 only.

2.2 **LOU, Section 11 (LAUNCH)** currently reads as follows: The parties intend to launch the COVID-19 Testing Platform at the SF Pier Site #1 on April 6, 2020. The parties intend to launch the COVID-19 Testing Platform at the SOMA Site #2 on April 27, 2020. Section 11 is revised in its entirety as follows:

Section 11 (LAUNCH). The parties intend to launch the COVID-19 Testing Platform at the SF Pier Site #1 on April 6, 2020. The parties intend to launch the COVID-19 Testing Platform at the SOMA Site #2 on April 27, 2020. The parties intend to launch the COVID-19 Mobile Testing Platform on May 4, 2020 as described in Attachment 2 to Appendix A.

2.3 **City Addendum, Article 3, Section 3.2 (Guaranteed Maximum Costs)** currently reads as follows: The City’s payment obligation to Color cannot at any time exceed EIGHT MISSION TWO HUNDRED FIFTY FOUR THOUSAND SIX HUNDRED SIXTY ONE DOLLARS (\$8,254,661), certified by the City’s controller for the purpose and period stated in such certification. . . . Section 3.2 is revised in part as follows:

Section 3.2 (Guaranteed Maximum Costs). The City’s payment obligation to Color cannot at any time exceed NINE MILLION NINE HUNDRED THOUSAND DOLLARS (\$9,900,000), certified by the City’s controller for the purpose and period stated in such certification. . . .

2.4 **City Addendum, Article 4, Section 4.2 (Subcontracting)** currently reads as follows at the last sentence: “For clarity, the City has approved in writing certain subcontracting services and costs in the Letter of Understanding (paragraph 5).” Section 4.2 is revised in part as follows:

Section 4.2 (Subcontracting). . . . For clarity, the City has approved in writing certain subcontracting services and costs in the Letter of Understanding (paragraph 10).

2.5 **City Addendum, Article 5 (Insurance and Indemnity), Section 5.1 (Insurance), Part 5.1.1.1.c.** currently reads as follows: **Commercial Automobile Liability Insurance (Reserved).** Part 5.1.1.1.c. is revised in its entirety as follows:

5.1.1.1.c. **Commercial Automobile Liability Insurance** Color and/or its subcontractor shall carry Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, “Combined Single Limit” for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable. The Commercial Automobile Liability Insurance policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees. The Commercial Automobile Liability Insurance policies shall provide that such policy is primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought. Before commencing any Services under this Modification No. 2, Color shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Color’s liability hereunder.

2.6 **City Addendum, Appendix B.** Appendix B is hereby replaced in its entirety by Appendix B, dated May 4, 2020 attached to this Amendment and fully incorporated within the Agreement.

2.7 **City Addendum, Appendix B-1.** Appendix B-1 is hereby replaced in its entirety by Appendix B-1, dated May 4, 2020 attached to this Amendment and fully incorporated within the Agreement.

Article 3 Effective Date

Each of the modifications set forth in Section 2 shall be effective on and after May 4, 2020.

Article 4 Legal Effect

Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:

DocuSigned by:
Greg Wagner
28527524752849F

Grant Colfax, MD
Director of Health
Department of Public Health

CONTRACTOR
Color Genomics, Inc.

DocuSigned by:
Caroline Savello
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Caroline Savello
City Supplier number: 0000042840

Approved as to Form:

Dennis J. Herrera
City Attorney

By: DocuSigned by:
Louise S. Simpson
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Louise S. Simpson
Deputy City Attorney

Approved:

Alaric Degrafinried
Director of the Office of Contract
Administration, and Purchaser

By: DocuSigned by:
Linda Repola
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Linda Repola
Name: _____

Attached Contract Documents

- Attachment 2 to Appendix A
- Appendix B
- Appendix B-1

Attachment 2 to Appendix A - Modification No. 2
Mobile Testing Platform
May 4,2020

Color will extend its Services to the City as set forth below, subject to the terms and conditions of the Agreement.

1. **Expansion for Skilled Nursing and Mobile COVID-19 Testing Platform Services:** Color will expand its scope from the “SF Pier Site #1” and the “SOMA Site #2” to provide mobile COVID-19 Services (collectively, “Mobile Testing Platform”) for residents who cannot travel to existing testing sites. The Mobile Testing Platform will provide access for Skilled Nursing Facilities (SNF), congregate settings, and communities with difficulty accessing physical test sites as identified and prioritized by SFDPH. SFDPH will identify and prioritize locations for administering the Mobile Testing Platform.

2. **Summary of Added Mobile Testing Platform Services:**
 - a. Testing
 - i. Collect test samples
 - ii. Process COVID-19 samples submitted from Mobile Testing Platform
 - iii. Deliver test samples to Color lab daily
 - b. Testing Reporting and Data Sharing
 - i. Provide Reporting and Data Sharing as specified in the existing Agreement.
 - c. Mobile Site Logistics
 - i. Manage design, supply, and operations of Mobile Testing Platform
 - ii. Provide clinical staffing and logistics support, including pop-up tenting or mobile units, based on the specifics of the prioritization of sites identified by DPH
 - iii. Manage supply of the clinical staffing support for Mobile Testing Platform

Appendix B Calculation of Charges

1. Method of Payment

A. Color shall submit monthly invoices by the fifteenth (15th) working day of each month, in the format attached in Appendix F, based upon the number of units of service that were delivered in the immediately preceding month. All deliverables associated with the Services listed in Section 2 of Appendix A, times the unit rate as shown in the Program Budgets listed in Section 2 of Appendix B shall be reported on the invoice(s) each month. City shall pay all invoices within thirty (30) days' of receipt, unless otherwise indicated in Appendix B-1.

2. Program Budgets and Final Invoice

A. Program Budgets are listed below and are attached hereto.

Appendix B-1 COVID-19 Testing Services

B. Color understands that, of the maximum dollar obligation listed in section 3.2 of this Agreement, **\$1,059,819** is included as a contingency amount and is neither to be used in Program Budgets attached to this Appendix, or available to Color without a modification to this Agreement executed in the same manner as this Agreement or a revision to the Program Budgets of Appendix B, which has been approved by Contract Administrator. Color further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable City and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by Controller. Color agrees to fully comply with these laws, regulations, and policies/procedures.

C. Color agrees to comply with its Program Budgets of Appendix B in the provision of Services. Changes to the budget that do not increase or reduce the maximum dollar obligation of the City are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. Color agrees to comply fully with that policy/procedure.

D. A final closing invoice clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of the Agreement, and shall include only those Services rendered during the referenced period of performance. If Services are not invoiced during this period, all unexpended funding set aside for this Agreement will revert to City. City's final reimbursement to the Color at the close of the Agreement period shall be adjusted to conform to actual units certified multiplied by the unit rates identified in the Program Budgets attached hereto, and shall not exceed the total amount authorized and certified for this Agreement.

3. No invoices for Services provided by law firms or attorneys, including, without limitation, as subcontractors of Color, will be paid unless the provider received advance written approval from the City Attorney.

Appendix B-1
Calculation of Charges
(Budget)
COVID-19 Testing Services

COVID-19 Test	Price
<p>Color will provide the COVID-19 Testing Platform to San Francisco at a cost of \$75 per test completed, including:</p> <ul style="list-style-type: none"> a. Sample collection kits (swab kits) b. Sample collection paperwork (barcodes, instructions, order forms) c. Transport of sample collection kits: Daily drop-off of kits, 1x-2x/day sample pickup from facilities d. Clinical support (bulk ordering authorization flow, results dashboard) e. Clinical testing results & reporting to patients (negatives & positives) by HIPAA secure method. Results ready notifications by text/phone/email f. Daily reporting of results to calREDIE and San Francisco DPH g. Positive patient routing (e.g., support for contact tracing) 	\$75 / test
<p>Subcontractor Cost: Clinical partner</p> <p>Subcontractor shall provide Healthcare worker staffing at the testing site and shall be responsible for all Personal Protect Equipment for its staff. Prior to execution of any subcontractor agreement, Contractor shall provide to the City a work plan and budget for subcontractor services. The budget shall represent the total cost of the subcontractor and shall be used as the basis for billings. City must approve in writing the submitted subcontractor proposal and budget.</p>	\$18,600 per 5 day week, based on estimate of 200 tests/day (to be revised in the event of volume increase)
<p>Subcontractor Cost: Logistics partner</p> <p>Subcontractor shall provide site logistics (for example, site setup / breakdown / rental costs). Prior to execution of any subcontractor agreement, Contractor shall provide to the City a work plan and budget for subcontractor services. The budget shall represent the total cost of the subcontractor and shall be used as the basis for billings. City must approve in writing the submitted subcontractor proposal and budget.</p>	\$17,528 per 5 day week, based on current site design
<p>One-time Startup Fee: Color will incur startup costs for Subcontractor efforts and pass-through of Subcontractor startup costs, including site design, setup, and project management. Color's startup costs include one-time site setup costs estimated at \$64,795.49 and \$150,000.00 costs for site and project management costs from Color. City agrees to pay such One-Time Startup Fee within five (5) days of full signature of the Agreement.</p>	\$214,795.49
<p>Rebuild and expansion of Color's HIPAA-compliant digital platform and web application for the appointment registration, appointment scheduling, clinical test results, follow up and required reporting, per specification of the City. Application specifications</p>	\$110,000

<p>are contained in the Letter of Understanding between the parties which this City Addendum is attached. One-time fee inclusive of all expenses required for the rebuild and expansion of the Color digital platform and web clinical application.</p>	
<p>Application maintenance and hosting: Weekly fee is inclusive of all data transfer to and from the Contractor and the City and all system maintenance per the specifications contained in the Letter of Understanding between the parties which this City Addendum is attached. Weekly fee is inclusive of all expense required for application maintenance and hosting.</p>	<p>\$10,000 / weekly</p>
<p>Budget for Attachment 2 to Appendix A1 - Modification No. 2 Mobile Testing Platform May 4,2020</p>	<p>Price</p>
<p>Color will provide the COVID-19 Testing Platform to San Francisco at a cost of \$75 per test completed, including:</p> <ul style="list-style-type: none"> a. Sample collection kits (swab kits) b. Sample collection paperwork (barcodes, instructions, order forms) c. Transport of sample collection kits: Daily drop-off of kits, 1x-2x/day sample pickup from facilities d. Clinical support (bulk ordering authorization flow, results dashboard) e. Clinical testing results & reporting to patients (negatives & positives) by HIPAA secure method. Results ready notifications by text/phone/email f. Daily reporting of results to CalREDIE and San Francisco DPH g. Positive patient routing (e.g., support for contact tracing) 	<p>\$75 / test</p>
<p>Subcontractor Cost: Subcontractor shall provide Healthcare worker staffing at the testing site and pop-up site logistics support, and shall be responsible for all Personal Protect Equipment for its staff. Estimated budget includes clinical staffing, medical assistant, and daily PPE</p>	<p>100/day volume, 7 days/week: \$20,720 / week</p> <p>200/day volume, 7 days/week: \$38,115 / week</p> <p>400/day volume, 7 days/week: \$76,230 / week</p> <p>600/day volume, 7 days/week: \$114,345 / week</p> <p>800/day volume, 7 days/week: \$152,460 / week</p>

Services are rendered as needed. Subcontractor costs shall be passed through. Services will be invoiced according to invoicing terms of the Agreement. In no event may the scope of services or the not-to-exceed amount of the Agreement be increased without a formal modification of this Agreement. Should costs increase

based on an increased testing volume, the City and Color will meet promptly to revise the Budget and payments herein before Services can continue.

Budget Summary

Charge Item	Estimated Budgeted Amount
1 Completed Test = 1 Unit of Service 1 Completed Startup task = 1 Unit of Service 1 Week of Maintenance = 1 Unit of Service	
Budgeted amount for testing services	\$5,800,000
Subcontractor Cost: Clinical Partner	\$297,600
Subcontractor Cost: Site Logistics	\$280,448
One-Time Startup Fee	\$214,795
One time charge for rebuild and expansion of digital platform and web application.	\$110,000
Weekly maintenance fee (\$10,000 / week)	\$90,000
Budget for Attachment 2 to Appendix A1 - Modification No. 2 Mobile Testing Platform May 4,2020	
Amount allocated for Mobile Testing Platform	\$1,667,388
Subtotal	\$8,460,231
Estimated Taxes	\$379,950
Subtotal Including Estimated Taxes	\$8,840,181
Contingency 12%	\$1,059,819
Total not to Exceed Amount of the Contract	\$9,900,000

