

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

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**Agreement between the City and County of San Francisco and
Color Health, Inc. (f/k/a Color Genomics, Inc.)**

This Agreement is made this sixth day of April, 2021, in the City and County of San Francisco, State of California, by and between Color Health, Inc. 831 Mitten Road, Suite 100, Burlingame CA 94010, a for profit entity, ("Contractor") and City.

Recitals

WHEREAS, the Department of Public Health ("Department") wishes to COVID-19 testing services ; and,

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a Request for Proposal ("RFP") issued on September 1, 2020 in which City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, there is no Local Business Entity ("LBE") subcontracting participation requirement for this Agreement; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement; and

WHEREAS, the City's Civil Service Commission approved Contract number 43580-19/20 on September 21, 2020;

WHEREAS, approval for this Agreement under S.F. Charter Section 9.118 was obtained when the Board of Supervisors approved Resolution No. _____ on _____.

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein.

1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through both its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing" and Department of Public Health."

1.3 "CMD" means the Contract Monitoring Division of the City.

1.4 "Confidential Information" means confidential City information including, but not limited to, personally-identifiable information ("PII"), protected health information ("PHI"), or individual financial information (collectively, "Proprietary or Confidential Information") that is subject to local, state

or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).

1.5 "Contractor" or "Consultant" means Color Health, Inc. 831 Mitten Road, Suite 100, Burlingame CA 94010.

1.6 "Deliverables" means Contractor's work product resulting from the Services that are provided by Contractor to City during the course of Contractor's performance of the Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

1.7 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.8 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, that impose specific duties and obligations upon Contractor.

1.9 "Party" and "Parties" mean the City and Contractor either collectively or individually.

1.10 "Services" means the work performed by Contractor under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

Article 2 Term of the Agreement

2.1 Term.

The term of this Agreement shall commence on April 6, 2021 and expire on March 31, 2022 unless earlier terminated as otherwise provided herein.

2.2 Options.

The City has 2 options to renew the Agreement for a period of one year each. The City may extend this Agreement beyond the expiration date by exercising an option, upon the parties' mutual agreement, by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

Option 1: April 1, 2022 to March 31, 2023

Option 2: April 1, 2023 to March 31, 2024

Article 3 Financial Matters

3.1 Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds

are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 **Guaranteed Maximum Costs.**

The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 **Compensation.**

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Health, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **SIXTY FIVE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$65,550,000)**. The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to by both parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments.

3.3.2 **Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments from City until Department of Public Health approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

3.3.3 **Withhold Payments.** If Contractor fails to provide Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein.

3.3.4 **Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City as specified in Section 3.3.6, or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.5 **Reserved. LBE Payment and Utilization Tracking System.**

3.3.6 **Getting paid by the City for goods and/or services.**

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through, the City's Automated Clearing House (ACH) payments service/provider. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

3.3.7 **Federal and/or State Funded Contracts.**

(a) **Disallowance.** If Contractor requests or receives payment from City for Services, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other agreement between Contractor and City.

(b) **Reserved. (Grant Terms)**

3.4 **Audit and Inspection of Records.**

3.4.1 Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years, unless required for a longer duration due to Federal, State, or local requirements of which the City will notify contractor in writing, after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.4.2 Contractor shall annually have its books of accounts audited by a Certified Public Accountant and a copy of said audit report and the associated management letter(s) shall be transmitted to the Director of Public Health or his /her designee within one hundred eighty (180) calendar days following Contractor's fiscal year end date. If Contractor expends \$750,000 or more in

Federal funding per year, from any and all Federal awards, said audit shall be conducted in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Said requirements can be found at the following website address:

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.

If Contractor expends less than \$750,000 a year in Federal awards, Contractor is exempt from the single audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal Agency, pass-through entity and General Accounting Office. Contractor agrees to reimburse the City any cost adjustments necessitated by this audit report. Any audit report which addresses all or part of the period covered by this Agreement shall treat the service components identified in the detailed descriptions attached to Appendix A and referred to in the Program Budgets of Appendix B as discrete program entities of the Contractor.

3.4.3 The Director of Public Health or his / her designee may approve a waiver of the audit requirement in Section 3.4.1 above, if the contractual Services are of a consulting or personal services nature, these Services are paid for through fee for service terms which limit the City's risk with such contracts, and it is determined that the work associated with the audit would produce undue burdens or costs and would provide minimal benefits. A written request for a waiver must be submitted to the DIRECTOR ninety (90) calendar days before the end of the Agreement term or Contractor's fiscal year, whichever comes first.

3.4.4 Any financial adjustments necessitated by this audit report shall be made by Contractor to the City. If Contractor is under contract to the City, the adjustment may be made in the next subsequent billing by Contractor to the City, or may be made by another written schedule determined solely by the City. In the event Contractor is not under contract to the City, written arrangements shall be made for audit adjustments.

3.5 Submitting False Claims.

The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.6 Payment of Prevailing Wages. (Reserved)

3.7 Contract Amendments; Budgeting Revisions.

3.7.1 **Formal Contract Amendment:** Contractor shall not be entitled to an increase in the Compensation or an extension of the Term unless the Parties agree to a Formal Amendment in

accordance with the San Francisco Administrative Code and Section 11.5 (Modifications of this Agreement).

3.7.2 City Revisions to Program Budgets: The City shall have authority, without the execution of a Formal Amendment, to purchase additional Services and/or make changes to the work in accordance with the terms of this Agreement (including such terms that require Contractor's agreement), not involving an increase in the Compensation or the Term by use of a written City Program Budget Revision.

Article 4 Services and Resources

4.1 Services Contractor Agrees to Perform.

Contractor agrees to perform the Services provided for in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, and Contractor is not obligated to perform Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 Qualified Personnel.

Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 Subcontracting.

4.3.1 Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

4.3.2 City's execution of this Agreement constitutes its approval of the subcontractors listed below.

Carbon Health Technologies, Inc.
Czarnowski Display Service, Inc.

4.4 Independent Contractor; Payment of Employment Taxes and Other Expenses.

4.4.1 Independent Contractor. For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any

retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within ten (10) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

4.4.2 Payment of Employment Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor or a Contractor staff member is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the employment tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority find an employment tax liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to this Section 4.4 shall be solely limited to the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

4.5 Assignment.

The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where the Contractor is a joint venture, a joint venture partner, (collectively referred to as an "Assignment") unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The

City's approval of any such Assignment is subject to the Contractor demonstrating to City's reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Contractor's obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

4.6 Warranty.

Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

4.7 Reserved. (Liquidated Damages.)

Article 5 Insurance and Indemnity

5.1 Insurance.

5.1.1 **Required Coverages.** Insurance limits are subject to Risk Management review and revision, as appropriate, as conditions warrant. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage. Contractor is permitted to meet any of the insurance requirements in this section with the use of excess or umbrella coverage:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$5,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations

(c) Commercial Automobile Liability Insurance with limits not less than \$2,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(d) Healthcare Professional and Products Liability Insurance, applicable to Contractor's profession, with limits not less than \$2,000,000 for each claim with respect to negligent acts, errors or omissions in connection with the Services.

(e) Technology Errors and Omissions Liability coverage, with limits of \$5,000,000 for each claim and each loss. The policy shall at a minimum cover negligence or omissions regarding the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

(i) Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks; and

(ii) Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

(f) Cyber and Privacy Insurance with limits of not less than \$20,000,000 per claim and in the aggregate. Such insurance shall include coverage for liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in any form.

5.1.2 Commercial General Liability and Automobile Liability Insurance policies must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

5.1.3 Contractor's Commercial General Liability and Automobile Liability Insurance policies shall provide that such policies are 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.

5.1.4 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.5 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

5.1.6 Should any of the required insurance, excluding any form of professional liability, be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

5.1.7 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

5.1.8 Before commencing any Services, Contractor 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 Contractor's liability hereunder.

5.1.9 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

5.1.10 If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

5.2 Indemnification.

5.2.1 Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all third party claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors, or either's agent or employee. Contractor shall also indemnify, defend and hold City harmless from all suits or claims or administrative proceedings for breaches of federal and/or state law regarding the privacy of health information, electronic records or related topics, arising directly or indirectly from Contractor's performance of this Agreement. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

5.2.2 In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

5.2.3 Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

Article 6 Liability of the Parties

6.1 Liability of City.

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT

6.2 Liability.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL Contractor BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT. CONTRACTOR'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT SHALL BE CAPPED IN THE AGGREGATE AT 1.5 TIMES THE TOTAL, NOT TO EXCEED AMOUNT FOR ALL SERVICES AND/OR DELIVERABLES UNDER THIS AGREEMENT (\$70 +37.5).

CONTRACTOR'S LIABILITY LIMIT SET FORTH ABOVE SHALL NOT APPLY TO:

(1) DAMAGES CAUSED BY Contractor's GROSS NEGLIGENCE (FOR PURPOSES OF THIS SECTION, "GROSS NEGLIGENCE" SHALL MEAN A WANT OF EVEN SCANT CARE OR EXTREME DEPARTURE FROM THE ORDINARY STANDARD OF CONDUCT) OR WILLFUL MISCONDUCT;

(2) Contractor's OBLIGATION TO INDEMNIFY AND DEFEND CITY PURSUANT TO THE GENERAL INDEMNIFICATION AND INFRINGEMENT INDEMNIFICATION PROVISIONS HEREIN;

(3) DAMAGES THAT ARISE FROM THE UNAUTHORIZED USE OR DISCLOSURE OR FAILURE TO MAINTAIN CONFIDENTIALITY OF CITY'S DATA AND INFORMATION, INCLUDING ALL OF CITY'S RELATED COSTS OF INVESTIGATION AND NOTIFICATION, AND STATUTORY FINES AND PENALTIES ("DATA BREACH");

(4) WRONGFUL DEATH CAUSED BY CONTRACTOR, NOT RELATED TO A LICENSED MEDICAL PROVIDER'S USE OR RELIANCE UPON A Contractor DELIVERABLE; AND

(5) CLAIMS COVERED BY INSURANCE.

Article 7 Payment of Taxes

7.1 Taxes.

Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

7.2 Possessory Interest Taxes.

Contractor acknowledges that this Agreement may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

7.2.2 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

7.2.3 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

7.2.4 Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

7.3 Withholding.

Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations

Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

Article 8 Termination and Default

8.1 Termination for Convenience

8.1.1 City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions may include any or all of the following, without limitation:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

8.1.3 Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for Services. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Contractor can establish, to the satisfaction of

City, that Contractor would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the Services or other work.

8.1.4 In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically listed in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, City may deduct: (i) all payments previously made by City for Services covered by Contractor's final invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

8.1.6 City's payment obligation under this Section shall survive termination of this Agreement.

8.2 Termination for Default; Remedies.

8.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims.	10.10	Alcohol and Drug-Free Workplace
4.5	Assignment	10.13	Working with Minors
Article 5	Insurance and Indemnity	11.10	Compliance with Laws
Article 7	Payment of Taxes	Article 13	Data and Security

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within ten days after written notice thereof from City to Contractor. If Contractor defaults a second time in the same manner as a prior default cured by Contractor, City may in its sole discretion immediately terminate the Agreement for default or grant an additional period not to exceed five days for Contractor to cure the default.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property; or (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default, including by exercising its rights under San Francisco Administrative Code § 21.33; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 Non-Waiver of Rights.

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.4 Rights and Duties upon Termination or Expiration.

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.3.7(a)	Grant Funded Contracts - Disallowance	9.2	Works for Hire
3.4	Audit and Inspection of Records	11.6	Dispute Resolution Procedure
3.5	Submitting False Claims	11.7	Agreement Made in California; Venue
Article 5	Insurance and Indemnity	11.8	Construction
6.1	Liability of City	11.9	Entire Agreement
6.3	Liability for Incidental and Consequential Damages	11.10	Compliance with Laws
Article 7	Payment of Taxes	11.11	Severability
8.1.6	Payment Obligation	Article 13	Data and Security
		Appendix E	Business Associate Agreement

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 9 Rights In Deliverables

9.1 Ownership of Results.

Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors for the purposes of this agreement, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities. For clarity, and notwithstanding anything to the contrary in this Agreement or any SOW, the Parties acknowledge and agree that Deliverables do not include (a) Contractor's Covid-19 Testing registration, scheduling, and resulting platform (or any source code or object code underlying such platform), including without limitation any and all improvements, modifications, customizations, or extensions thereto (collectively, the "Contractor Software Platform"); and/or (b) any other software, content, or services (or improvements, modifications, customizations, or extensions thereof) that are core to Contractor's business or operations, including but not limited to Contractor's laboratory or support services and operations (collectively, the "Contractor Laboratory Platform"), and that Contractor owns all right, title and interest (including patent rights, copyrights, trade secret rights, mask work rights, trademark rights, and any other intellectual property rights of any kind), in and to the Contractor Software Platform and Contractor Laboratory Platform.

9.2 Use of Samples

9.2.1 **Control:** The City controls all use and transfer of human biological/viral specimens (including, but not limited to COVID-19 test samples) collected by Contractor and paid for by the City under this Agreement, including the Emergency Agreement (dated April 5, 2020) (“Samples”)

9.2.2 **Protocol:** The following protocol applies to any and all Samples:

(a) **Destruction:** Within seven (7) days after successful COVID-19 test processing, Contractor must securely destroy all Samples;

(b) **Pre-Destruction Use:** Before Sample destruction, Contractor may use Samples for the following purposes, only:

1. COVID-19 laboratory validation and quality control as permitted by applicable laws, rules, regulations, and licensure requirements,
2. COVID-19 clinical testing as directed by the City pursuant to this Agreement.

(c) **Written Directive:** If agreed in writing by the City’s Director of Health, or her or his designee, and Contractor (“Written Directive”), the Parties may add Protocol terms. Given the City’s emergent needs during the COVID-19 pandemic, Contractor will use best efforts to comply with each mutually agreed upon Written Directive within 24 hours of issuance. Any costs associated with a Written Directive must be mutually agreed to by the Parties. Contractor may not transfer any Samples to a third-party without a Written Directive.

9.2.3 **Obligations Continue Until Return or Destruction:** Contractor’s obligations under this Agreement shall continue until Contractor destroys remaining City Samples.

9.2.4 **Notification of Destruction of City Samples:** Upon expiration or termination of this Agreement, Contractor shall certify in writing to the City that all remaining City samples, including those collected and paid for by the City under the Emergency Contract (Dated April 5, 2020), have been securely destroyed. The notice shall include the date and type of destruction method used.

9.3 Use of Patient and/or Sample Data

9.3.1 **Control:** The City controls all use and transfer of patient and/or Sample data collected by Contractor and paid for by the City under this Agreement, including the Emergency Agreement (dated April 5, 2020) (“Patient and/or Sample Data”);

9.3.2 **Protocol:** The following protocol applies to any and all Patient and/or Sample Data:

(a) **Destruction:** **Within** two (2) years of collection, Contractor must destroy or return all Patient and/or Sample Data, including Lab Order Requisition data and results reports;;

(b) **Pre-Destruction Use:** Before Patient and/or Sample Data destruction, Contractor may use Patient and/or Sample Data for the following purposes, only:

1. COVID-19 laboratory validation and quality control as permitted by applicable laws, rules, regulations, and licensure requirements,
2. COVID-19 patient support activities or as directed by the patient or a legal authority,
3. COVID-19 clinical testing as directed by the City pursuant to this Agreement,

(c) **Written Directive:** If agreed in writing by the City's Director of Health, or her or his designee, and Contractor ("Written Directive"), the Parties may add Protocol terms. Given the City's emergent needs during the COVID-19 pandemic, Contractor will use best efforts to comply with each mutually agreed upon Written Directive within 24 hours of issuance. Any costs associated with a Written Directive must be mutually agreed to by the Parties. Contractor may not transfer any Samples to a third-party without a Written Directive.

9.4 **Data security.**

9.4.1 **Secure File Transfer.** The Parties will share Patient and/or Sample Data via a secure file transfer.

9.4.2 **Qualified Personnel.** Color shall allow only qualified personnel under Color's direct supervision to access Patient and/or Sample Data.

9.4.3 **Safeguards.** Color shall safeguard the confidentiality of all Patient and/or Sample Data at all times.

9.4.4 **No Re-Disclosure or Reporting.** Color may not re-disclose or otherwise prepare reports (in electronic or hard-copy format) regarding or containing Patient and/or Sample Data for transmission to any other individuals, agencies, or organizations except as permitted under applicable law, rule, regulation, licensure requirement, or health order, or Written Directive.

9.4.5 **Data Transmission.** Color must ensure that all electronic transmission or exchange of Patient and/or Sample Data is encrypted according to current industry standard(s), as determined in its sole discretion by Color.

9.4.6 **Compliance with Law.** Color shall comply with all applicable federal and state laws regarding the transmission, storage and protection of all Patient and/or Sample Data.

9.5 **Safeguards.**

Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, security, integrity, and availability of City Samples and Data. Contractor shall safeguard the Samples and Patient and/or Sample Data from unauthorized use.

9.6 **Notification to City of breach or Security Incident.**

9.6.1 Contractor shall notify City immediately upon the discovery of a Sample breach. In the event of a Sample and/or Patient and/or Sample Data breach:

- (a) **Mitigation:** Contractor shall take:
 1. prompt corrective action to mitigate any risks or damages involved with the breach and to protect the City Samples and Data; and,

2. any action pertaining to a breach required by applicable federal or state laws.

(b) **Investigation of Breach:** Contractor shall immediately investigate such breach and cooperate with City in any investigation and mitigation efforts.

(c) **Public Statements:** Contractor shall cooperate with City on developing content for any public statements regarding any breach related to Contractor and shall not provide any public statements without the express written permission of City, unless as required by applicable law, rule, or regulation.

Article 10 Additional Requirements Incorporated by Reference

10.1 Laws Incorporated by Reference.

The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/

10.2 Conflict of Interest.

By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

10.3 Prohibition on Use of Public Funds for Political Activity.

In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

10.4 Consideration of Salary History.

Contractor shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section.

10.5 Nondiscrimination Requirements

10.5.1 Non Discrimination in Contracts. Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance.

Contractor shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Contractor is subject to the enforcement and penalty provisions in Chapter 14B.

10.7 Minimum Compensation Ordinance.

If Administrative Code Chapter 12P applies to this contract, Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. Contractor is required to comply with all of the applicable provisions of 12P, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Contractor certifies that it complies with Chapter 12P.

10.8 Health Care Accountability Ordinance.

If Administrative Code Chapter 12Q applies to this contract, Contractor shall comply with the requirements of Chapter 12Q. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Information about and the text of the Chapter 12Q, as well as the Health Commission's minimum standards, is available on the web at <http://sfgov.org/olse/hcao>. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q. Any Subcontract entered into by Contractor shall require any Subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section.

10.9 First Source Hiring Program.

Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

10.10 Alcohol and Drug-Free Workplace.

City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

Contractor agrees in the performance of this Agreement to maintain a drug-free workplace by notifying employees that unlawful drug use is prohibited and specifying what actions will be taken against employees for violations; establishing an on-going drug-free awareness program that includes employee notification and, as appropriate, rehabilitation. Contractor can comply with this requirement by implementing a drug-free workplace program that complies with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. § 701) or California Drug-Free Workplace Act of 1990 Cal. Gov. Code, § 8350 et seq., if state funds involved.

10.11 Limitations on Contributions.

By executing this Agreement, Contractor acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

10.12 Reserved (Slavery Era Disclosure.)

10.13 Working with Minors.

In accordance with California Public Resources Code Section 5164, if Contractor, or any subcontractor, is providing services at a City park, playground, recreational center or beach, Contractor shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position in a

position having supervisory or disciplinary authority over a minor if that person has been convicted of any offense listed in Public Resources Code Section 5164. In addition, if Contractor, or any subcontractor, is providing services to the City involving the supervision or discipline of minors or where Contractor, or any subcontractor, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Contractor and any subcontractor shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this section and Section 10.14, "Consideration of Criminal History in Hiring and Employment Decisions," of this Agreement, this section shall control.

10.14 Consideration of Criminal History in Hiring and Employment Decisions

10.14.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.15 Reserved. (Public Access to Nonprofit Records and Meetings.)

10.16 Food Service Waste Reduction Requirements.

Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.17 Distribution of Beverages and Water.

10.17.1 **Sugar-Sweetened Beverage Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

10.17.2 **Packaged Water Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Packaged Water, as defined by San Francisco Environment Code Chapter 24, as part of its performance of this Agreement.

10.18 Tropical Hardwood and Virgin Redwood Ban.

Pursuant to San Francisco Environment Code Section 804(b), the City urges Contractor not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

10.19 Reserved. (Preservative Treated Wood Products.)

Article 11 General Provisions

11.1 Notices to the Parties.

Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

- To CITY: Office of Contract Management and Compliance
Department of Public Health
101 Grove Street, Room 410
San Francisco, California 94102 e-mail: robert.longhitano@sfdph.org
- And: Tobi Skotnes
DEPARTMENT OF PUBLIC HEALTH
101 GROVE ST. RM. 308
SAN FRANCISCO, CA 94102 e-mail: tobi.skotnes@sfdph.org
- To Contractor: COLOR HEALTH, INC.
831 Mitten Road, Suite 100
Burlingame CA 94010 e-mail: legal-notices@color.com

Any notice of default must be sent by registered mail or other trackable overnight mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 Compliance with Americans with Disabilities Act.

Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 Incorporation of Recitals.

The matters recited above are hereby incorporated into and made part of this Agreement.

11.4 Sunshine Ordinance.

11.4.1 Public Records Request: Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.4.2 Contractor's Obligations: If the Department of Public Health receives a Public Records Request pertaining to Contractor, the Department will use its best efforts to notify Contractor of the Request and to provide Contractor with a description of the material that the Department deems responsive and the due date for disclosure ("Response Date"). If Contractor asserts that some or all of the material requested contains or reveals valuable trade secrets or other information belonging to Contractor that is exempt from disclosure and directs the City in writing to withhold such material from production ("Withholding Directive"), then the City will comply with the Withholding Directive on the condition that Contractor seeks judicial relief on or before the Response Date. If any third-party initiates or threatens to initiate legal action to compel the production of Contractor's material, Contractor shall defend, indemnify and save harmless City and its officers, agents and employees from any and all such third party claims. Should Contractor fail to seek judicial relief on or before Response Date, the City shall proceed with the disclosure of responsive documents.

11.4.3 Agreement not to Sue: Contractor agrees that it will not sue the City for damages in connection with the disclosure by the City of information that Contractor asserts is exempt from disclosure, so long as such disclosure was inadvertent and the City uses reasonable efforts to mitigate the effects of the inadvertent disclosure and/or uses reasonable efforts to retrieve the information as appropriate.

11.5 Modification of this Agreement.

This Agreement may not be modified, nor may compliance with any of its terms be waived, \except by written instrument executed and approved in the same manner as this Agreement.

11.6 Dispute Resolution Procedure.

11.6.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.6.2 Government Code Claim Requirement. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.6.3 Deleted (Health and Human Service Contract Dispute Resolution Procedure.)

11.7 Agreement Made in California; Venue.

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

11.8 Construction.

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.9 Entire Agreement.

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

11.10 Compliance with Laws.

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

11.11 Severability.

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

11.12 Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

11.13 Order of Precedence.

Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement, the RFP, and Contractor's proposal dated September 29, 2020. The RFP and Contractor's proposal are incorporated by reference as though fully set forth herein. Should there be a conflict of terms or conditions, this Agreement shall control over the RFP and the Contractor's proposal.

11.14 Notification of Legal Requests.

To the extent permitted by applicable law, regulation, or rule, Contractor shall promptly notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to all data given to Contractor by City in the performance of this Agreement ("City Data" or "Data"), or which in any way might reasonably require access to City's Data, and in no event later than 72 hours after it receives the request. Unless otherwise required by applicable law,

regulation, or rule, or Contractor's obligations as a Covered Entity thereunder, Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored; subject to Contractor's obligations under applicable law, regulation, rule, licensure requirement, or patient instructions.

Article 12 Department Specific Terms

12.1 Third Party Beneficiaries.

No third parties are intended by the parties hereto to be third party beneficiaries under this Agreement, and no action to enforce the terms of this Agreement may be brought against either party by any person who is not a party hereto.

12.2 Federal and State Financial Participation

12.2.1 Contractor acknowledges that some or all of the items, products, or services that Contractor furnishes to City under this Agreement may be included, directly or indirectly, in whole or in part, in claims submitted by City to Federal or State health care programs. By executing this Agreement Contractor certifies that it is not currently, and shall not during the term of this Agreement become, excluded, directed to be excluded, suspended, ineligible or otherwise sanctioned from participation in any Federal or State assistance programs. Contractor shall notify City, as provided in Section 11.1, within thirty (30) days of any such exclusion, suspension, ineligibility, or other sanction. This is a material term of this Agreement.

12.2.2 Contractor agrees to indemnify and hold harmless City and City's officers, directors, employees, agents, successors and permitted assigns from and against any and all (including but not limited to Federal, State, or third party) civil monetary penalties, assessments, repayment obligations, losses, damages, settlement agreements and expenses (including reasonable attorneys' fees) arising from the exclusion, suspension, ineligibility, or other sanction of Contractor and/or Contractor's workforce (including those who oversee Contractor's workforce, supervisors and governing body members) from participation in any Federal or State assistance program.

12.3 Certification Regarding Lobbying.

Contractor certifies to the best of its knowledge and belief that:

A. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor to any persons for influencing or attempting to influence an officer or an employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the entering into of any federal cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan or cooperative agreement.

B. If any funds other than federally appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, Contractor shall complete and submit Standard Form -111, "Disclosure Form to Report Lobbying," in accordance with the form's instructions.

C. Contractor shall require the language of this certification be included in the award documents for all subawards at all tiers, (including subcontracts, subgrants, and contracts under grants, loans and cooperation agreements) and that all subrecipients shall certify and disclose accordingly.

D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article 13 Data and Security

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 Protection of Private Information. If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

13.1.2 Confidential Information. In the performance of Services, Contractor may have access to City's proprietary or Confidential Information, the disclosure of which to third parties may damage City. If City discloses proprietary or Confidential Information to Contractor, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or Confidential Information.

13.2 Reserved. (Payment Card Industry ("PCI") Requirements.)

13.3 Business Associate Agreement.

The parties acknowledge that CITY is a Covered Entity as defined in the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA") and is required to comply with the HIPAA Privacy Rule governing the access, use, disclosure, transmission, and storage of protected health information (PHI) and the Security Rule under the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act").

The parties acknowledge that Contractor will:

1. Do **at least one** or more of the following:
 - A. Create, receive, maintain, or transmit PHI for or on behalf of CITY/SFDPH (including storage of PHI, digital or hard copy, even if Contractor does not view the PHI or only does so on a random or infrequent basis); or
 - B. Receive PHI, or access to PHI, from CITY/SFDPH or another Business Associate of City, as part of providing a service to or for CITY/SFDPH, including legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial; or
 - C. Transmit PHI data for CITY/SFDPH and require access on a regular basis to such PHI. (Such as health information exchanges (HIEs), e-prescribing gateways, or electronic health record vendors)

FOR PURPOSES OF THE INSURANCE BILLING SERVICES TO BE PERFORMED UNDER THIS AGREEMENT, CONTRACTOR IS A BUSINESS ASSOCIATE OF CITY/SFDPH, AS DEFINED UNDER HIPAA. CONTRACTOR MUST COMPLY WITH AND COMPLETE THE FOLLOWING ATTACHED DOCUMENTS, INCORPORATED TO THIS AGREEMENT AS THOUGH FULLY SET FORTH HEREIN:

- a. **Appendix E** SFDPH Business Associate Agreement (BAA) (04-12-2018)
 - 1. SFDPH Attestation 1 PRIVACY (06-07-2017)
 - 2. SFDPH Attestation 2 DATA SECURITY (06-07-2017)

- 2. **NOT** do any of the activities listed above in subsection 1;

Contractor is not a Business Associate of CITY/SFDPH. Appendix E and attestations are not required for the purposes of this Agreement. Management of City Data and City Confidential Information

13.3.1 Access to City Data. City shall at all times have access to and control of all data given to Contractor by City in the performance of this Agreement (“City Data” or “Data”), and shall be able to retrieve it in a readable format, in electronic form and/or print, at any time, at no additional cost.

13.3.2 Use of City Data and City Confidential Information. Contractor agrees to hold City's Confidential Information received from or created on behalf of the City in strictest confidence. Contractor shall not use or disclose City's Data or City's Confidential Information except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City's Confidential Information outside the United States is subject to prior written authorization by the City. Access to City's Confidential Information must be strictly controlled and limited to Contractor's staff assigned to this project on a need-to-know basis only. Contractor is provided a limited non-exclusive license to use the City Data or City Confidential Information solely for performing its obligations under the Agreement and not for Contractor's own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data or City Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data or City Confidential Information by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase “unauthorized use” means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

13.3.3 Disposition of City Confidential Information. Upon termination of Agreement or request of City, Contractor shall within forty-eight (48) hours return all City Confidential Information which includes all original media. Once Contractor has received written confirmation from City that City Confidential Information has been successfully transferred to City, Contractor shall within ten (10) business days purge all City Confidential Information from its servers, any hosted environment Contractor has used in performance of this Agreement, work stations that were used to process the data

or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge.

13.3.4 Protected Health Information. Contractor, all subcontractors, all agents and employees of Contractor and any subcontractor shall comply with all federal and state laws regarding the transmission, storage and protection of all private health information disclosed to Contractor by City in the performance of this Agreement. Contractor agrees that any failure of Contractor to comply with the requirements of federal and/or state and/or local privacy laws shall be a material breach of the Contract. In the event that City pays a regulatory fine, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible use or disclosure of protected health information by Contractor or its subcontractors or agents Contractor shall indemnify City for the amount of such fine or penalties or damages, including costs of notification. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract.

Article 14 MacBride Principles -Northern Ireland.

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

Article 15 Official Actions Relating to the Emergency; FEMA Assistance.

15.1 Orders of Local, State or Federal Officials.

City and Contractor mutually acknowledge that local, state, or federal authorities may issue official orders related to the COVID-19 epidemic, or take other official actions, subsequent to the execution of this Agreement that Parties to this Agreement cannot presently predict. City and Contractor mutually acknowledge and agree that this Agreement shall be subject to the provisions of any such official action or order ("Official Actions"), as they may be revised and updated. If the provisions of any such Official Actions materially impact the terms of this Agreement, the provisions of those Official Actions shall govern. Contractor shall stay updated on the status of the City Health Officer orders by checking the Department of Public Health website (sfdph.org) regularly.

15.2 FEMA Assistance.

This is an acknowledgement that FEMA financial assistance will be requested by City and if provided will be used to fund all or a portion of this Agreement. Contractor shall comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives, including the FEMA Contract Requirements attached hereto as Appendix D and incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

Contractor

Recommended by:

Color Health, Inc.

Grant Colfax, MD
Director of Health
Department of Public Health

DocuSigned by:
Caroline Savello 02/19/2021 | 4:40 PM PST
06425BDC4DBC4FD...

Caroline Savello
Chief Commercial Officer

Supplier ID: 0000042840

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Louise S. Simpson
Deputy City Attorney

Approved:

Sailaja Kurella
Acting Director of the Office of Contract
Administration, and Purchaser

Appendices

- A: Scope of Services
- B: Calculation of Charges
- C: Reserved
- D: FEMA Contract Requirements
- E: HIPAA Business Associate Agreement
- F: Invoice
- G: Local Emergency Declaration
- H: Test Authorization and Request Form, including the Order of the Health Officer C19-10
- I: Color Data Security/Hosting Terms
- J: Data Flow Diagram
- K: Reporting and Data Flow Chart
- L: Port Operation Requirements and Site Plan

Appendix A Scope of Services

1. Terms

A. Contract Administrator:

In performing the Services hereunder, Contractor shall report to **Tobi Skotnes** Contract Administrator for the City, or his / her designee.

B. Reports:

Contractor shall submit written reports as requested by the City. The format for the content of such reports shall be determined by the City. The timely submission of all reports is a necessary and material term and condition of this Agreement. All reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

For services solicited under a Group Purchasing Organization (GPO) the Contractor shall report all applicable sales under this agreement to the respective GPO.

C. Evaluation:

Contractor shall participate as requested with the City, State and/or Federal government in evaluative studies designed to show the effectiveness of Contractor's Services. Contractor agrees to meet the requirements of and participate in the evaluation program and management information systems of the City.

For contracts for the provision of services at San Francisco General or Laguna Honda Hospital and Rehabilitation Center, the evaluation program shall include agreed upon performance measures as specified in the Performance Improvement Plan and Performance Measure Grid which is presented in Attachment 1 to Appendix A. Performance measures are reported annually to the Zuckerberg San Francisco General performance improvement committees (PIPS and Quality Council) or the to the Administration Office of Laguna Honda Hospital and Rehabilitation Center.

The City agrees that any final written reports generated through the evaluation program shall be made available to Contractor within thirty (30) working days. Contractor may submit a written response within thirty working days of receipt of any evaluation report and such response will become part of the official report.

D. Possession of Licenses/Permits:

Contractor warrants the possession of all licenses and/or permits required by the laws and regulations of the United States, the State of California, and the City to provide the Services. Failure to maintain these licenses and permits shall constitute a material breach of this Agreement.

E. Adequate Resources:

Contractor agrees that it has secured or shall secure at its own expense all persons, employees and equipment required to perform the Services required under this Agreement, and that all

such Services shall be performed by Contractor, or under Contractor's supervision, by persons authorized by law to perform such Services.

F. Admission Policy:

Admission policies for the Services shall be in writing and available to the public. Except to the extent that the Services are to be rendered to a specific population as described in the programs listed in Section 2 of Appendix A, such policies must include a provision that clients are accepted for care without discrimination on the basis of race, color, creed, religion, sex, age, national origin, ancestry, sexual orientation, gender identification, disability, or AIDS/HIV status.

G. Grievance Procedure:

Contractor agrees to establish and maintain a written Client Grievance Procedure which shall include the following elements as well as others that may be appropriate to the Services: (1) the name or title of the person or persons authorized to make a determination regarding the grievance; (2) the opportunity for the aggrieved party to discuss the grievance with those who will be making the determination; and (3) the right of a client dissatisfied with the decision to ask for a review and recommendation from the community advisory board or planning council that has purview over the aggrieved service. Contractor shall provide a copy of this procedure, and any amendments thereto, to each client and to the Director of Public Health or his/her designated agent (hereinafter referred to as "DIRECTOR"). Those clients who do not receive direct Services will be provided a copy of this procedure upon request.

H. Infection Control, Health and Safety:

(1) Contractor must have a Bloodborne Pathogen (BBP) Exposure Control plan for its employees, agents and subcontractors as defined in the California Code of Regulations, Title 8, Section 5193, Bloodborne Pathogens (<http://www.dir.ca.gov/title8/5193.html>), and demonstrate compliance with all requirements including, but not limited to, exposure determination, training, immunization, use of personal protective equipment and safe needle devices, maintenance of a sharps injury log, post-exposure medical evaluations, and recordkeeping.

(2) Contractor must demonstrate personnel policies/procedures for protection of its employees, agents, subcontractors and clients from other communicable diseases prevalent in the population served. Such policies and procedures shall include, but not be limited to, work practices, personal protective equipment, staff/client Tuberculosis (TB) surveillance, training, etc.

(3) Contractor must demonstrate personnel policies/procedures for Tuberculosis (TB) exposure control consistent with the Centers for Disease Control and Prevention (CDC) recommendations for health care facilities and based on the Francis J. Curry National Tuberculosis Center: Template for Clinic Settings, as appropriate.

(4) Contractor is responsible for site conditions, equipment, health and safety of their employees, and all other persons who work or visit the job site.

(5) Contractor shall assume liability for any and all work-related injuries/illnesses including infectious exposures such as BBP and TB and demonstrate appropriate policies and procedures for reporting such events and providing appropriate post-exposure medical management as required by State workers' compensation laws and regulations.

(6) Contractor shall comply with all applicable Cal-OSHA standards including maintenance of the OSHA 300 Log of Work-Related Injuries and Illnesses.

(7) Contractor assumes responsibility for procuring all medical equipment and supplies for use by its employees, agents and subcontractors, including safe needle devices, and provides and documents all appropriate training.

(8) Contractor shall demonstrate compliance with all state and local regulations with regard to handling and disposing of medical waste.

I. Aerosol Transmissible Disease Program, Health and Safety:

(1) Contractor must have an Aerosol Transmissible Disease (ATD) Program as defined in the California Code of Regulations, Title 8, Section 5199, Aerosol Transmissible Diseases (<http://www.dir.ca.gov/Title8/5199.html>), and demonstrate compliance with all requirements including, but not limited to, exposure determination, screening procedures, source control measures, use of personal protective equipment, referral procedures, training, immunization, post-exposure medical evaluations/follow-up, and recordkeeping.

(2) Contractor shall assume liability for any and all work-related injuries/illnesses including infectious exposures such as Aerosol Transmissible Disease and demonstrate appropriate policies and procedures for reporting such events and providing appropriate post-exposure medical management as required by State workers' compensation laws and regulations.

(3) Contractor shall comply with all applicable Cal-OSHA standards including maintenance of the OSHA 300 Log of Work-Related Injuries and Illnesses.

(4) Contractor assumes responsibility for procuring all medical equipment and supplies for use by their employees, agents, subcontractors including Personnel Protective Equipment such as respirators, and provides and documents all appropriate training.

J. Acknowledgment of Funding:

Contractor agrees to acknowledge the San Francisco Department of Public Health in any printed material or public announcement describing the San Francisco Department of Public Health-funded Services. Such documents or announcements shall contain a credit substantially as follows: "This program/service/activity/research project was funded through the Department of Public Health, City and County of San Francisco."

K. Client Fees and Third Party Revenue:

(1) Fees required by federal, state or City laws or regulations to be billed to the client, client's family, or insurance company, shall be determined in accordance with the client's ability to pay and in conformance with all applicable laws. Such fees shall approximate actual cost. No additional fees may be charged to the client or the client's family for the Services. Inability to pay shall not be the basis for denial of any Services provided under this Agreement.

(2) Contractor agrees that revenues or fees received by Contractor related to Services performed and materials developed or distributed with funding under this Agreement shall be used to increase the gross program funding such that a greater number of persons may receive Services. Accordingly, these revenues and fees shall not be deducted by Contractor from its billing to the City.

L. Patients Rights:

All applicable Patients Rights laws and procedures shall be implemented.

M. Quality Assurance:

Contractor agrees to develop and implement a Quality Assurance Plan based on internal standards established by Contractor applicable to the Services as follows:

- 1) Staff evaluations completed on an annual basis.
- 2) Personnel policies and procedures in place, reviewed and updated annually.
- 3) Board Review of Quality Assurance Plan.

2. Description of Services

Contractor agrees to perform the following Services:

All written Deliverables, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

Detailed description of services are listed below and are attached hereto

Appendix A-1: End-to-End COVID-19 Testing Services

3. Services Provided by Attorneys. Any services to be provided by a law firm or attorney to the City must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

Attachment 1 to Appendix A

PERFORMANCE IMPROVEMENT PLAN AND PERFORMANCE MEASURE GRID

Contract Services

AIM: All services provided through contractual agreement are provided safely and effectively for patient care and support services, annually.

Contract Name	Services Provided	Measure Name	Metric (What data is being collected?)
1. Color Health	COVID-19 Test	Diagnostic tests completed with the or before the 48 turnaround time	95.00% completed within the contracted Turn around time
2. Color Health	Day to Day Service Incident Resolution	Severity Level 1: Requires immediate attention – Causes a major Service impact and no workaround is available.	99.99% of Severity Level 1 issues completed as follows Resolution Time Target: 2 hours. Maximum Permitted Request Resolution Time: 12 hours
3. Color Health	Day to Day Service Incident Resolution	Severity Level 2: Requires priority attention - Causes significant Service impact; however, Service can continue to operate in a limited fashion.	99.99% of Severity Level 2 issues completed as follows Resolution Time Target: 4 hours. Maximum Permitted Request Resolution Time: 24 hours
4. Color Health	Day to Day Service Incident Resolution	Severity Level 3: Requires attention – Causes a minimal loss of service and a workaround is available such that	99.99% of Severity Level 3 issues completed as follows Resolution

		Service can continue to operate fully and users are able to continue business operations.	Time Target: 8 hours. Maximum Permitted Request Resolution Time: 48 hours
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APPENDIX A-1 – STATEMENT OF WORK



STATEMENT OF WORK

End-to-End COVID-19 Testing Services

APPENDIX A-1 – STATEMENT OF WORK

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APPENDIX A-1 – STATEMENT OF WORK

1.0 PHASE 1: Summary Scope of Implementation Services

This Statement of Work (SOW) outlines the scope of Contractor’s services to perform the implementation, Go-Live, and post Go-Live phases of the Project. Contractor is responsible for supplying all resources required for an on-time and on-budget implementation as well as for all testing at the “all-in” testing fee post Go-Live.

For the sake of clarity, Contractor is providing all Services for Work Threads 1 – 3 at a fixed price “all-in” testing fee. Contractor is responsible for providing the resources necessary for Contractor to meet its obligations with respect to such Services, including that Contractor will allocate additional resources as necessary at Contractor’s cost to meet all such obligations, to the extent within the scope of the RFP, in compliance with the terms of this Agreement.

Note: The City will also pay 7.5% of all successfully billed claims in accordance with Appendix B (Calculation of Charges)

1.1 Implementation Scope

1.1.1 Schedule

Contractor will implement all necessary work for each of the four Work Threads so that the Project can successfully Go-Live on or before April 6, 2021. In the event of a delay to the Go-Live date due to Contractor’s failure to deliver on Go-Live deliverables described in this SOW in substantial accordance with the Delivery Acceptance Criteria (as defined in Section 6.0 below), City shall delay payment of a percentage of the total amount due to Contractor hereunder according to the following tiers:

1. Tier 1 (severe impact to Go-Live service levels): Core COVID-19 testing services are rendered unavailable (including registration platform not live, language translations not available, lab not in operation, testing sites requested by the City and within scope not available or unable to operate safely and at full capacity). 100% withholding of the total amount due to Contractor until remedied.
2. Tier 2 (substantial impact to Go-Live service levels): Testing sites and testing operational, but material Go-Live deliverables indicated as launch-blocking in the matrix are not met. 40% withholding of the total amount due to Contractor until remedied.
3. For clarity, no deliverables deemed “Not launch blocking” according to the Go-Live deliverables matrix will be cause for any withholding of payments.

For clarity, Contractor shall be entitled to, and City shall pay to Contractor, the entire amounts that City previously withheld on the aforementioned basis, promptly (within 5 business days) following Contractor’s delivery of all Go-Live deliverables in substantial accordance with the Delivery Acceptance Criteria, but not before then.

1.1.2 Daily COVID-19 Testing Volume

Within one month after the Effective Date of the contract, the Contractor must be capable of processing up to 3,000 COVID-19 tests per day (“Volume”), seven days per week, at two City-directed stationary sites and using up to three mobile units (“Scope”). The City reserves its rights to adjust (up and/or down) the Volume of services under this SOW and/or to request services outside of the Scope through other vendors. The City will provide Contractor with 14 calendar days’ notice before any Volume adjustment or adjustments to the mobile units, and 30 calendar days’ notice before adjustments to a stationary site. Further, the City shall reimburse Contractor for any non-cancellable or non-refundable fees Contractor, and incurred under the terms of the Agreement prior to receiving notice from the City of a Scope reduction. City may deny payment for costs incurred by Contractor outside of the Scope of this Agreement or not otherwise mutually agreed to by City and Contractor.

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NOTE: DAILY VOLUMES MAY RANGE FROM A FEW HUNDRED TO UP TO A FEW THOUSAND TESTS BY TESTING PROJECT AND SITE.

1.2 End-To-End Testing Service Work Threads

1. **Registration, Scheduling, and Resulting:** online patient registration, appointment scheduling, and testing results notification using a HIPAA- compliant and flexible framework.
2. **Specimen Collection and Site Management:** collection of patient specimen samples at various City-directed stationary sites and via mobile units; and b) provision of on-site operations to support safe sample collection.
3. **Lab Testing:** testing and resulting patient specimen samples retrieved from collection sites in a CLIA-certified laboratory setting.
4. **Billing:** management of medical claims processing, billing, follow-up, and collection, with commercial insurance and government payors (e.g., Medi- Cal/Medicaid/Medicare) for COVID-19 testing services provided by the Contractor.

1.3 Change Requests

NO ADDITIONAL FEES BEYOND THE GUARANTEED MAXIMUM BID PRICE FOR THE “ALL-IN” TEST FEE (\$75/\$81) FOR WORK THREADS 1 – 4 MAY BE INCURRED OR PAID ABSENT A FORMAL MODIFICATION OF THIS AGREEMENT.

Examples of activities that would *not* trigger additional fees include but are not limited to the following:

1. Decrease in daily tests performed;
2. Increase in staffing requirements for Services that are within the scope of the RFP;
3. Performance of any Deliverable identified in the RFP.

2.0 PHASE 2: Development and Readiness Plans for Work Threads 1 - 4:

Milestone Due Date – One Week Post Effective Date

In Phase 2, Contractor will develop readiness plans for the implementation of Work Threads 1 - 4.

PHASE 1 TOPIC	MILESTONE DUE DATE – ONE WEEK POST EFFECTIVE DATE
Project Management	<p>Contractor will develop readiness plans for Work Threads 1 – 4 and designate a Project Manager to lead and govern the program implementation for an on time, on budget project.</p> <p>The Contractor Project Manager will conduct, at minimum, weekly City/Contractor staff meetings.</p>
Readiness Plan	<p>Contractors readiness plans, to be followed pre and post Go-Live, must include at minimum the following elements:</p> <ol style="list-style-type: none"> 1. Go-Live Readiness Criteria Matrix: Go-Live readiness matrix covering all requirements for Work Threads 1 – 4, 2. Staffing: Contractor staffing plan for full service of all Work Threads,

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	<ol style="list-style-type: none"> 3. Planning: Project schedules in Gantt chart format and including dependencies and project critical path, implementation plans, 4. Project Teams and Subconsultant Management: Data integration management, data flow diagrams, resources, and project manager coordination, 5. Issue/Risk Management: identification and classification by impact and risk, status and resolution tracking, mitigation, and contingency plans for risks, 6. Budget Management: Status reports, risk identification, and mitigation, 7. Communication: Regular status reports detailing metrics and status of Key Performance Indicators as defined by the City.
<p>Data management Plan</p>	<p>Contractor’s readiness plans must include plans for implementation and updating of key testing data requirements, including at minimum the following elements:</p> <ol style="list-style-type: none"> 1. Reporting, 2. Transmission methods to ensure integrated resulting within the end-to-end testing process, 3. Custom data schemes and formats such as extensible mark-up language (XML), eLR standards, flat file formats, Excel, and Access as well as various data exchange methodologies with configurable frequency and content to include bi-directional secure file-transfer protocol (FTP), secure web services, and website data export, 4. secure direct access to and/or downloads of electronic data, documentation, and reporting in a usable format. 5. requirements to ensure that all City data is stored on servers located within the continental United States
<p>Reporting Plan</p>	<p>Contractor must prepare a Reporting Plan for post Go-Live reporting that encompasses and integrates data from all Work Threads and can be modified on an as-needed basis, including but not limited to the following:</p> <ol style="list-style-type: none"> 1. Daily report on the number of registered patients who did and did not complete their appointments by testing event (specimen collection site and/or population type) 2. Daily summary report of results and patient demographics by site location 3. Daily report of patients residing outside of San Francisco who completed appointments 4. Dashboard of testing statistics in aggregate by each location, updated no less than daily 5. Other reports as recommended by Contractor or requested by the City.
<p>Other</p>	

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2.1 PHASE 2.1: Dev. and Readiness for Work Thread 1: Registration, Scheduling, and Resulting Milestone Due Date – Two Weeks Post Effective Date

Key specifications include but are not limited to the following:

PHASE 2.1 Topic	MILESTONE DUE DATE – TWO WEEKS POST EFFECTIVE DATE
<p>Work Thread 1: General</p>	<p>By the Milestone Date for Work Thread 1 (Registration, Scheduling, and Resulting) Contractor must demonstrate a functioning online patient registration, appointment scheduling, and results notification platform:</p> <ol style="list-style-type: none"> 1. The Platform must include a HIPAA-compliant and flexible framework, 2. The Platform must adhere to applicable and evolving City, State, and Federal guidelines and requirements, 3. The platform must be user-friendly, have a consistent look and feel, aligned with the City’s websites, adhere to the City’s accessibility standards, 4. The platform must be supported on variety of operating systems (including Android, iOS, and Windows) 5. Data collected must integrate between all Work Threads. 6. The registration, scheduling, and resulting platform must have full language translation into minimally Spanish, Chinese, Filipino, Korean, Russian, Vietnamese, and Arabic (Google Translate is unacceptable)
<p>Work Thread 1: Registration</p>	<p>The Registration module must allow for flexible updating of data captured as City, State, and Federal requirements may evolve. Initial data elements for the registration module must include all data fields required by the California Reportable Disease Information Exchange (CalREDIE) system, CARES Act, and other state and federal reporting agencies and/or as deemed appropriate by the City, including but not limited to the following:</p> <ol style="list-style-type: none"> 1. First test (Y/N/U) 2. Essential worker confirmation 3. Employed in Healthcare (Y/N/U) 4. UCSF status (i.e. UCSF student, UCSF employee, or N/A) 5. DSW status 6. External ID / DSW number 7. Symptoms 8. Date of symptom onset 9. Exposure 10. Pregnant (Y/N/U)

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	<p>11. Resident in a congregate care setting (Y/N/U)</p> <p>12. First name</p> <p>13. Last name</p> <p>14. Middle name</p> <p>15. Patient Date of birth</p> <p>16. Patient Phone</p> <p>17. Patient Email</p> <p>18. Street address</p> <p>19. City/State</p> <p>20. Zipcode</p> <p>21. Patient Sex at birth</p> <p>22. Patient Gender Identity</p> <p>23. Sexual Orientation</p> <p>24. Race/Ethnicity</p> <p>25. Language Preference</p> <p>26. Guardian First Name</p> <p>27. Guardian Last Name</p> <p>28. Guardian Email</p> <p>29. Guardian Phone Number</p> <p>30. Patient employment status</p> <p>31. Patient Employer</p> <p>32. Work location</p> <p>33. Last day reported to work</p> <p>34. Population (distinguish between patient types; e.g. city staff member versus a resident at a congregate living facility)</p> <p>35. Insurance Type</p> <p>36. Insurance Provider Name</p> <p>37. Kaiser Medical Record Number</p> <p>38. Health insurance ID #</p> <p>39. Health insurance group ID #</p> <p>40. Patient relationship to primary holder of health insurance</p> <p>41. Primary Health Insurance Holder First Name</p> <p>42. Primary Health Insurance Holder Last Name</p>
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	<p>43. Primary Health Insurance Holder Birthdate</p> <p>44. Primary Health Insurance Holder ID</p> <p>45. Primary Health Insurance Holder Gender</p> <p>46. Primary care physician (first, last, practice, city, state)</p> <p>47. Consent to share with primary care physician</p> <p>48. Appointment date/time</p> <p>49. Drive-thru vs walk-up</p> <p>50. Collection Site Name</p> <p>51. Collection Site Neighborhood</p> <p>52. Appointment Type (Walk-up vs Appointment)</p> <p>53. Screening for testing eligibility, as needed (eligibility criteria are based on City, State, and Federal recommendations and may evolve over time),</p> <p>54. Registration of minors and incorporation of parental approvals</p> <p>55. Registration platform must distinguish between San Francisco residents and non-residents. The City retains records of all patients tested under this Agreement.</p> <p>56. Inclusion of minimal barriers to registration and user steps (such that patients without email addresses could register)</p> <p>57. The platform must have language translation into minimally Spanish, Chinese, Filipino, Korean, Russian, Vietnamese, and Arabic (Google Translate is unacceptable).</p>
<p>Work Thread 1: Scheduling</p>	<p>The Scheduling module must be able to function at two City-directed stationary sites and up to three mobile units on a daily basis. Scheduling functionality must include but is not limited to the following:</p> <ol style="list-style-type: none"> 1. Appointment prioritization: scheduling shall be configurable to allow for the prioritization by population type and/or by collection stationary site/mobile unit location. This would allow for prioritization of appointments for critical populations. 2. Appointments made by contact tracers on behalf of a patient: to maximize testing integration with contact tracing, contact tracers shall hold a user role that allows them to priority schedule a specimen collection appointment on behalf of a positive patient’s contacts entered at registration. 3. Adjustments to the number of appointments made available for scheduling and how far advance they are made available, as directed by the City acting in its sole discretion: scheduling shall be configurable to to allow for changes in how far advance appointments can be made including same day and walk up appointment availability.

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	<p>4. Language translation: The platform must have language translation into minimally Spanish, Chinese, Filipino, Korean, Russian, Vietnamese, and Arabic (Google Translate is unacceptable)</p>
<p>Work Thread 1: Resulting</p>	<p>The Resulting module must:</p> <ol style="list-style-type: none"> 1. Comply with State and HIPAA clinical reporting requirements regarding the routing of lab test results 1. Provide results by phone and by secure patient portal access in languages, including at a minimum Spanish, Chinese, Filipino, Korean, Russian, Vietnamese, and Arabic (Google Translate is unacceptable) 2. Provide email and text notifications to the patient that results are available in HIPAA-compliant location (e.g., via patient portal, phone) (the methods by which results are returned to the patient may change over time and may need to offer some flexibility depending on the population type and level of access to technology). 3. Provide both negative and positive results to the patient in their preferred language in a downloadable written record. 4. The City may also request the downloading and exporting of results to other assigned City entities as needed (e.g., DPH Contact Tracers, specimen collection sites, other DPH teams).
<p>Work Thread 1: Call Center</p>	<p>The registration platform must include a patient help line and a fully staffed Call Center to support patient registration, scheduling, and resulting.</p> <ol style="list-style-type: none"> 1. The Call Center must be available during business hours of 8:00 am – 5:00 pm, seven days a week, including holidays. 2. The Call Center must have the ability to register and schedule patients for tests. 3. The Call Center must provide support to patients experiencing issues with using the Registration/Scheduling/Resulting module(s) and/or needing language assistance.

2.2 PHASE 2.2: Dev. and Readiness for Work Thread 2: Specimen Collection and Site Management

Milestone Due Date – Two Weeks Post Effective Date

Key specifications include but are not limited to the following:

PHASE 2.2 Topic	MILESTONE DUE DATE – TWO WEEKS POST EFFECTIVE DATE
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<p>Work Thread 2: General</p>	<p>the Milestone Due Date for Work Thread 2 (Specimen Collection and Site Management) Contractor demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. Collect patient samples at initially two City-directed stationary and three mobile unit specimen collection sites in San Francisco across populations and ages (e.g., congregate living facilities, minor children, essential City workers), 2. Provide on-site operations to support safe sample collection. 3. Provide varied site types depending upon testing needs; 4. Demonstrate the ability to respond rapidly to an outbreak and/or deploy to support vulnerable communities. 5. Provide the appropriate site staffing, supplies, logistics, and configuration to support efficient and effective collection processes while adhering to HIPAA, State, and Federal guidelines.
<p>Work Thread 2: Site Types and Volumes</p>	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. handle high volumes of appointments and walk-in patients 2. across multiple collection site types (e.g., walk-through and/or drive-through stationary sites, mobile units). <p>NOTE: DAILY VOLUMES MAY RANGE FROM A FEW HUNDRED TO UP TO A FEW THOUSAND TESTS BY TESTING PROJECT AND SITE.</p>
<p>Work Thread 2: Staffing & On-Site Management</p>	<p>Contractor must demonstrate the ability to (a) provide appropriate licensed/certified and trained health care providers (HCPs) and (b) oversee staff coordination to perform clinical services associated with safe sample collection and cultural sensitivity.</p> <p>Specific health care services and on-site management may include but are not limited to the following:</p> <ol style="list-style-type: none"> 1. Specimen collection and oversight of self-collection methods 2. Setup and take down of stationary, mobile, outdoor, walk-through, and/or drive-through specimen collection sites. Rapidly-deployed sites would need to be set up within a maximum of seven days. 3. Greeters to maximize patient flow 4. On-site management, including the development and implementation of safety and security plans to enable the safe execution of specimen collection services and minimize risk exposure

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	<ol style="list-style-type: none"> 5. Requisition and labeling of sample collection 6. Language translation services in Spanish, Chinese, Filipino, Korean, Russian, Vietnamese, and Arabic.
Work Thread 2: Registration Verification and Support	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. Verify completed appointment registration upon arrival 2. Provide registration assistance to walk-in patients who may not yet have an appointment 3. Verify that all patient registration demographic data required by federal guidelines (e.g., patient age, sex, race, ethnicity, zip code) is successfully entered into the registration module while maintaining HIPAA compliance. 4. Perform insurance eligibility confirmation for patients that have indicated they are insured 4. Supply Tablets/Laptop Stations, mobile chargers, and Wi-Fi to support onsite registration as needed. 5. Ensure that the patient is successfully registered before specimen collection.
Work Thread 2: Collection Methods	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. Support various specimen collection methods by an appropriate health care provider; 2. Perform nasal swabbing (Collection methods may vary by testing site and change with evolving technology, and the City may request the Vendor to flexibly support multiple methods).
Work Thread 2: Specimen Pick- Up	<p>Contractor must demonstrate the ability to ensure that completed specimens are:</p> <ol style="list-style-type: none"> 1. Handled, 2. Stored, 3. Transferred to the desired lab locations in accordance with lab protocols and requirements.
Work Thread 2: Patient Encounter Recording	<p>Contractor must demonstrate the ability</p> <ol style="list-style-type: none"> 1. to record patient encounters so that the City can develop rosters and reports of scheduled versus completed specimen collection of patients to identify gaps in certain populations that should be tested.

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	<ol style="list-style-type: none"> 2. to cooperate, plan, and implement key testing data requirements, reporting, and transmission methods as determined by the City to ensure integrated resulting and reporting.
<p>Work Thread 2: On-Site Logistics and Supplies</p>	<p>The Vendor must demonstrate the ability to provide the following, as needed:</p> <ol style="list-style-type: none"> 1. Personal Protective Equipment (PPE) for all staff and patients 2. Disinfectant and hand sanitizer 3. Site equipment, including Wi-Fi, power generators, tents, cones, signage, traffic flow support, etc. (in multiple languages as needed) 4. Handwashing station(s) 5. Portable toilets for staff and patients 6. Janitorial services, including ongoing cleaning and proper waste disposal at the site(s) 7. Appropriate and accessible spaces for Contractor staff to take breaks and eat meals

2.3 PHASE 2.3: Dev. and Readiness of Work Thread 3: Lab Testing

Milestone Due Date – Two Weeks Post Effective Date

Key specifications include but are not limited to the following:

PHASE 2.3 Topic	MILESTONE DUE DATE – TWO WEEKS POST EFFECTIVE DATE
<p>Work Thread 3: General</p>	<p>By the Milestone Due Date for Work Thread 3 (Lab Testing) Contractor must demonstrate the ability to test and result patient specimen samples retrieved from specimen collection sites in a laboratory setting.</p> <p>Contractor and/or its subconsultant(s) must be CLIA-certified and licensed in California and must follow CLIA regulations regarding collection, transportation, testing, and reporting.</p> <p>Contractor must provide the at minimum the following to support efficient and effective testing while adhering to State and Federal guidelines and requirements</p> <ol style="list-style-type: none"> 1. lab staffing, 2. tools, 3. materials, 4. equipment,

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	<p>5. travel, and</p> <p>6. reporting</p> <p>COVID-19 test types, order volumes, and needed result turnaround times may vary by testing projects, by collection site, and/or as the testing technology evolves.</p> <p>The City reserves the right to require new types of FDA-authorized confirmatory COVID-19 tests.</p>
Work Thread 3: Test Kits and Transport to Lab	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. supply specimen collection kits (including suitable transport media) for specimen collection and courier specimen samples from collection sites to their lab 2. on the same day of collection.
Work Thread 3: Testing Volumes/Turnar ound Times	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. handle high volumes of tests across multiple concurrent orders with efficient turnaround times. 2. Within one month after contract award, the selected end-to-end testing team should be capable of processing up to 3,000 COVID-19 tests per day, seven days per week. 3. testing result turnaround times should be within 24-48 hours, but no longer than four days <p>NOTE: DAILY VOLUMES MAY RANGE FROM A FEW HUNDRED TO UP TO A FEW THOUSAND TESTS BY TESTING PROJECT AND SITE.</p>
Work Thread 3: Lab Testing & Quality Assurance	<p>Contractor must demonstrate the ability to</p> <ol style="list-style-type: none"> 1. provide molecular and/or genomic COVID-19 testing 2. statistically validate assays for various collection methods (e.g., nasal swab, oral swab, saliva, for supervised or self-collection) and transport media. 3. provide pooled testing or screening for populations with anticipated lower COVID-19 prevalence. 4. retest “in determinant” tests before asking for recollection. <p>NOTE: BEFORE AWARDING THE CONTRACT, THE WINNING PROPOSER WILL BE REQUIRED TO PROVIDE 20 TEST SAMPLES</p>

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	<p>TO THE DPH PUBLIC HEALTH LAB FOR RESULTS VERIFICATION.</p> <p>SHOULD DPH NOT DEEM VALIDATION APPROPRIATE, THE PROPOSER MAY BE REJECTED.</p>
<p>Work Thread 3: Resulting & Reporting</p>	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. comply with CLIA, State, Federal, HIPAA, and eLR clinical reporting requirements 2. send results to the ordering provider and the California Reportable Disease Information Exchange (CalREDIE) system in a timely fashion. 3. provide SNOMED coding for ease of interpretation by DPH Epidemiology and Surveillance and other DPH <i>staff</i>. 4. route results to other assigned entities (e.g., stationary testing sites, congregate living facilities, DPH teams, or other counties) as allowable under HIPAA and health orders; 5. establish direct access to the results database for more real-time reporting. 6. cooperate, plan, and implement key testing data requirements, reporting, and transmission methods as determined by the City to ensure integrated resulting and reporting

2.4 PHASE 2.4: Dev. and Readiness of Work Thread 4: Billing**Milestone Due Date – Two Weeks Post Effective Date**

Key specifications include but are not limited to the following:

PHASE 2.4 Topic	MILESTONE DUE DATE – TWO WEEKS POST EFFECTIVE DATE
<p>Work Thread 4: General</p>	<p>By the Milestone Due Date for Work Thread 4 (Billing) Contractor must demonstrate the ability to have a billing agency/entity that can manage the medical claims processing, billing, follow-up, collection, etc. with commercial insurance and government payors (e.g., Medi-Cal/Medicaid/Medicare) for COVID-19 testing services provided by the City through this RFP.</p> <p>The Vendor and/or its subconsultant(s) must manage claims for maximum collections in compliance with all commercial and government regulatory billing requirements, using a HIPAA-compliant framework, while adhering to applicable and evolving state and federal guidelines for reimbursement.</p>
<p>Work Thread 4: Claims Processing</p>	<p>Contractor must demonstrate the ability to integrate appropriate patient and insurance data from the Registration module (See Work Thread #1 – Registration, Scheduling, and Resulting) to extract the required data elements for processing a “1500 Health Insurance Claim Form” (1500 Claim Form)</p>

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	<p>and/or a 837P Electronic Claims file, as per the National Uniform Claim Committee (NUCC) guidelines.</p> <p>Contractor’s demonstrated claims management tasks must include:</p> <ol style="list-style-type: none"> 1. Enrollment in Electronic Data Interchange (EDI) services to obtain a trading partner ID and to transmit and receive 837/835 files with payors 2. Electronic billing, including producing the 1500 Claim Form and “e-837-P File Form” and receipt of the Claim Acknowledgement (277 File) 3. Support of paper claim forms, as needed 4. Receipt of payment determinations or ingesting the “835 Payment File” which provides the claim adjudication (e.g., paid, denied) 5. Rebilling of claims upon discovery of insurance 6. Identification and tracking of payment by payor, including collecting proof of payment 7. Reviewing claims adjudications with the City Team for optimization strategies on a regular basis
<p>Work Thread 4: National Provider Index (NPI)</p>	<p>Contractor must demonstrate the ability to:</p> <ol style="list-style-type: none"> 1. Submit claims under its own NPI as an independent agency.
<p>Work Thread 4: Payors</p>	<p>Contractor must demonstrate the ability to</p> <ol style="list-style-type: none"> 2. be knowledgeable in government and commercial medical claims processing, guidelines, and regulations for COVID-19 testing and otherwise, 3. have electronic claims filing ability with major commercial insurance providers in California (e.g., Anthem Blue Cross, United Healthcare, Aetna, Cigna, Kaiser), and government payors such as Medi-Cal, Medicaid, and Medicare
<p>Work Thread 4: Current and Future Reimbursement Opportunities</p>	<p>Contractor must demonstrate the ability to be knowledgeable on all funding sources and claims procedures for COVID-19 testing available to providers and be able to submit claims for all COVID-19 testing reimbursement programs under:</p> <ol style="list-style-type: none"> 1. The Families First Coronavirus Response Act (FFCRA) Relief Fund 2. The Public Health and Social Services Emergency Fund 3. The Paycheck Protection Program and Health Care Enhancement Act 4. The Coronavirus Aid, Relief, and Economic Security (CARES) Act; and

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	5. Any other Federal, State, or local program providing reimbursement to providers for COVID-19 testing
Work Thread 4: Reporting	<p>Contractor must demonstrate the ability to submit regular reports on the progress of their billing claims management as requested and defined by the City including but not limited to:</p> <ol style="list-style-type: none"> 1. Monthly Claims adjudication reports by insurer that are reconciled to offsetting credits provided in monthly invoices as stipulated in Appendix B 2. Monthly insurance aging reports by insurer including information on date of initial claim submissions, adjudication, rationale for adjudication, and outcomes

3.0 PHASE 3: Go-Live Readiness -**Milestone Due Date – Two Weeks Pre Go-Live Date (On or Before April 6, 2021)**

During Phase 3, Contractor will hold a series of Go-Live Readiness Assessments for each Work Thread, in which Contractor and the City will review the project in detail against Contractor’s Go-Live Readiness Criteria matrix (Attachment 1 to Appendix A-1) for a successful go-live event. Each Readiness Assessment must focus attention on outstanding issues and required resolution before the system goes live. Contractor will document the results of the Readiness Criteria Assessment and deliver that to the City.

4.0 PHASE 4: Go-Live**Milestone Due Date – On or Before April 6, 2021**

Phase 4 concludes with Go-Live of Work Threads 1 - 4. the City, as appropriate and acting in its sole discretion, will enable the system’s Go-Live Use following written approval by the City of all pre-Go-Live Deliverables.

5.0 PHASE 5: Post-Go-Live

During Phase 5, Contractor will communicate with the City to ensure proper processing and production needs of Work Threads 1 – 4 are being met.

Topic	Contractor Task
Post-Live Meetings	<ol style="list-style-type: none"> 1. Contractor will schedule post go-live meetings on a recurring basis, at least weekly and more frequently as needed. Contractor will maintain the weekly status report to be mutually approved by (signed off by the City) by the Parties. 2. Contractor will propose a reporting/triage template to be maintained by Contractor and content approved by City. 3. Contractor to establish a SharePoint (or substantially equivalent) site for mutually use by and storage of all project documents.

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Tools	<ol style="list-style-type: none"> 1. Contractor will customize the testing program based on City feedback. 2. Contractor will produce a monthly progress report on the status of the project, including the status of the budget. The contents of the report must be reviewed by Contractor and the City. The final progress report will be sent to the Director of Health and the City designated recipients. 3. Contractor will capture meeting minutes.
Oversight and Escalation	<ol style="list-style-type: none"> 1. Contractor will submit and provide input on project issues and project plan through weekly updates, based on completed tasks and minor timeline adjustments. 2. Contractor will promptly manage concerns and appropriately escalate and jointly manage concerns, potential delays in task completion and foreseen risk areas to project leadership. 3. Contractor will proactively identify project risks and issues and develop and implement mitigation strategies in cooperation with the City.
Metrics / Key Performance Indicators	<ol style="list-style-type: none"> 1. Contractor will provide recommendations on appropriate/industry best practice key performance indicators/benchmarks and how they will be implemented
Third Parties	<ol style="list-style-type: none"> 1. Contractor will inform the City of known third-party dependencies.

6.0 Deliverable Acceptance Criteria

Acceptance of all Deliverables identified in the SOW and/or Go Live Readiness Matrix will be granted if the predefined Delivery Acceptance Criteria are met.

As part of the implementation, the City and Contractor will discuss the Deliverables and the steps required to complete each Deliverable. The City will develop a detailed, mutually agreed upon Deliverable Acceptance Criteria document (DAC) for each deliverable.

7.0 Deliverable Acceptance Process

Upon delivery and receipt of a Deliverable from Contractor, the City will determine whether the Deliverable conforms to its Acceptance Criteria. The City will provide acceptance for a Deliverable per the DAC. All Deliverables require formal written approval by the City. A Deliverable must address all components required by the DAC.

The City, at any time, may halt the acceptance process if such process reveals deficiencies in meeting the Acceptance Criteria for the Deliverable. In such case, the City will promptly return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the acceptance process and, in that event, Contractor will correct any confirmed deficiencies in such Deliverable in accordance with the SOW.

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8.0 Staffing

Topic	Contractor
Staffing Plan and Feedback	<ol style="list-style-type: none"> 1. Contractor will provide all staffing required for Project Management and Work Threads 1 – 4. 2. Contractor will ensure availability of staffing during the City’s regular hours as defined in Legal Document.

9.0 Technical

Topic	Contractor
General	<ol style="list-style-type: none"> 1. Contractor will provide guidance on and troubleshooting assistance with all technical issues. 2. Contractor will provide support documentation and guidance to the City staff so the City can monitor the testing program 3. Contractor will participate in management forums to review relevant statistics, results of quality control checks, discussions for future improvements and innovation. 4. Contractor will provide input on selection of new testing elements
Error Monitoring	<ol style="list-style-type: none"> 1. Contractor will monitor interfaces, batch jobs, and application-specific error queues and work queues for interfaces managed by Contractor staff.
Disaster Recovery	<ol style="list-style-type: none"> 1. Contractor will advise on disaster recovery procedures and provide documentation with customer participation. 2. Contractor will work with the City to select annual dates for disaster recovery.

10.0 Service Level Obligations

The City may make Technical Support requests to Contractor for Service Incidents by calling (844)352-6567 or emailing support@color.com.

a. Service Incidents.

Service Incidents are characterized as: Severity Level 1, Severity Level 2, and Severity Level. The severity of a Service Incident will be initially defined by the City and confirmed by Contractor. Until the Service Incident has been resolved, the Severity Level may be raised or lowered based on Contractor’s analysis of impact to testing. Service Incidents may be related to any Deliverable that the Agreement obligates Contractor to provide. Note that Service Incidents shall not include force majeure, which Contractor and City agree to both use commercially reasonable efforts to discuss and resolve in an expedient manner.

b. Response to Service Incidents.

Contractor shall provide verbal or written responses to Service Incidents identified by City in accordance with the Target Response Times listed below.

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Incident Severity Level	<i>Target Response Time</i>	Metric
Severity Level 1: Requires immediate attention – Causes a major Service impact and no workaround is available.	Resolution Time Target: 2 hours. Maximum Permitted Request Resolution Time: 12 hours	As defined in Attachment 1 of Appendix A
Severity Level 2: Requires priority attention - Causes significant Service impact; however, Service can continue to operate in a limited fashion.	Resolution Time Target: 4 hours. Maximum Permitted Request Resolution Time: 24 hours	As defined in Attachment 1 of Appendix A
Severity Level 3: Requires attention – Causes a minimal loss of service and a workaround is available such that Service can continue to operate fully and users are able to continue business operations.	Resolution Time Target: 8 hours. Maximum Permitted Request Resolution Time: 48 hours days	As defined in Attachment 1 of Appendix A

Monitoring of the services shall be conducted as required by program staff of the Department. Contractor performance that does not meet the agreed metrics in the Performance Improvement Plan (“PIP”) of (Attachment 1 of Appendix A) shall be documented and provided to the Contractor in a standard corrective action plan issued by the Department.

11.0 Governance

The escalation path for business discussion is as follows:

1. Daily Huddle will be held at least once per day, excluding weekends and holidays unless mutually agreed upon by City and Contractor to continue to meet Daily, for example, during active surge, Daily Huddles would be held continuously. Daily Huddles must be attended by at least one (1) decision-maker or their designee’ from the Contractor staff and from the City staff. The Contractor’s designated Project Manager per this agreement must be in attendance or appoint a covering designee’.
2. Issues that cannot be resolved by Daily Huddle designated staff attendees will be escalated to the City-designated COVID Command Center Testing Director and the Contractor Chief Commercial Officer or decision-making designee for resolution.
3. Issues that cannot be resolved by the City-designated COVID Command Center Testing Director and the Contractor Chief Commercial Officer will be escalated to the City-designated COVID Command Center Health Operations leadership and the Contractor Chief Executive Officer or their designee for resolution.

	MILESTONE DUE DATE – ONE WEEK POST EFFECTIVE DATE	Success	Failure
1	Contractor will provide guidance on and troubleshooting assistance with all technical issues.		
2	Contractor will provide support documentation and guidance to the City staff so the City can monitor the testing program		
3	Contractor will participate in management forums to review relevant statistics, results of quality control checks, discussions for		
4	Contractor will provide input on selection of new testing elements		
5	Contractor will monitor interfaces, batch jobs, and application-specific error queues and work queues for interfaces managed by		

Launch Blocking	Not Launch Blocking	Color Clarification
x		
x		
x		
x		
x		

DATA COLLECTION AND REPORTING													
ID NO	Field	Need	User type	Source	Shared with								Color
					Cal-REDIE	Patient	PCP	On-site team	SF DPH (daily file transfer)	SF DPH (dashboard)	SF DHR		
1	First test (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
2	Essential worker confirmation	Eligibility	All	Signup Form; On-site team	X				X			X	
3	Employed in Healthcare (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
4	UCSF status (i.e. UCSF student, UCSF employee, or N/A)	Eligibility	All	Signup Form; On-site team					X			X	
5	DSW status	Eligibility	City	Signup Form; On-site team					X		X	X	
6	External ID / DSW number	Eligibility	City	Signup Form; On-site team					X		X	X	
7	Symptoms	Eligibility	All	Signup Form; On-site team	X				X			X	
8	Date of symptom onset	Lab Requirement	All	Signup Form; On-site team	X				X		X	X	
9	Exposure	Operational	All	Signup Form; On-site team	X				X			X	
10	Pregnant (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
11	Resident in a congregate care setting (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
12	Hospitalized? (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
13	ICU? (Y/N/U)	Lab Requirement	All	Signup Form; On-site team	X				X			X	
14	First name	Identify patient	All	Signup Form; On-site team	X	X	X	X	X	X	X	X	
15	Last name	Identify patient	All	Signup Form; On-site team	X	X	X	X	X	X	X	X	
16	Middle name	Identify patient	All	Signup Form; On-site team	X	X	X	X	X	X	X	X	
17	Patient Date of birth	Lab requirement; Identify patient	All	Signup Form; On-site team	X	X	X	X	X	X	X	X	
18	Patient Phone	Post-results contact	All	Signup Form; On-site team	X	X		X	X	X	X	X	
19	Patient Email	Post-results contact	All	Signup Form; On-site team	X	X		X	X	X	X	X	
20	Street address	Contact tracing	All	Signup Form; On-site team	X	X		X	X	X		X	
21	City/State	Epidemiology	All	Signup Form; On-site team	X	X		X	X	X		X	
22	Zipcode	Lab requirement	All	Signup Form; On-site team	X	X		X	X	X		X	
23	Patient Sex at birth	Lab requirement	All	Signup Form; On-site team	X				X	X		X	
24	Patient Gender Identity	Internal	All	Signup Form; On-site team	X				X		X	X	
25	Sexual Orientation	Internal	All	Signup Form; On-site team	X				X			X	
26	Race/Ethnicity	Epidemiology	All	Signup Form; On-site team	X				X	X		X	
27	Language Preference	Internal; Post-results contact	All	Signup Form; On-site team					X	X	X	X	
28	Guardian First Name	Lab requirement	Minors under 13	Signup Form; On-site team				X	X			X	
29	Guardian Last Name	Lab requirement	Minors under 13	Signup Form; On-site team				X	X			X	
30	Guardian Email	Post-results contact	Minors under 13	Signup Form; On-site team				X	X	X		X	
31	Guardian Phone Number	Post-results contact	Minors under 13	Signup Form; On-site team				X	X	X		X	
32	Patient employment status	Internal	All	Signup Form; On-site team					X			X	
33	Patient Employer	Internal; Contact tracing	Essential	Signup Form; On-site team					X			X	
34	Work location	Contact tracing	Essential	Signup Form; On-site team					X		X	X	
35	Last day reported to work	Contact tracing	City, Essential	Signup Form; On-site team					X		X	X	
36	Population	Operational	All	Signup Form; On-site team	X			X	X	X	X	X	
37	Insurance Type	Billing	All	Signup Form; On-site team					X			X	
38	Insurance Provider Name	Billing	All	Signup Form; On-site team					X			X	
39	Kaiser Medical Record Number	Billing	All	Signup Form; On-site team					X			X	
40	Health insurance ID #	Billing	All	Signup Form; On-site team					X			X	
41	Health insurance group ID #	Billing	All	Signup Form; On-site team					X			X	
42	Patient relationship to primary holder of health insurance	Billing	All	Signup Form; On-site team					X			X	
43	Primary Health Insurance Holder First Name	Billing	All	Signup Form; On-site team					X			X	
44	Primary Health Insurance Holder Last Name	Billing	All	Signup Form; On-site team					X			X	
45	Primary Health Insurance Holder Birthdate	Billing	All	Signup Form; On-site team					X			X	
46	Primary Health Insurance Holder ID	Billing	All	Signup Form; On-site team					X			X	
47	Primary Health Insurance Holder Gender	Billing	All	Signup Form; On-site team					X			X	
48	Primary care physician (first, last, practice, city, state)	Post-results contact	All	Signup Form; On-site team					X			X	
49	Consent to share with primary care physician	Post-results contact	All	Signup Form; On-site team					X			X	
50	Appointment date/time	Operational	All	Signup Form		X		X	X			X	
51	Appointment attendance	Operational	All	On-site team				X	X			X	
52	Drive-thru vs walk-up	Operational	All	Signup Form				X	X			X	
53	Collection Site Name	Operational	All	Signup Form	X				X			X	
54	Collection Site Neighborhood	Internal/Operational	All	Sign-up Form; On-site team					X	X		X	
55	Appointment Type (Walk-up vs Appointment)	Operational	All	Signup Form; On-site team				X	X			X	
56	Sample collection date/time	Lab requirement	All	On-site team	X	X	X		X	X	X	X	
57	Sample Barcode	Lab requirement	All	On-site team	X	X			X	X	X	X	
58	Specimen type (NP, OP, etc.)	Lab requirement	All	On-site team	X		X		X			X	
59	Test result	Lab requirement	All	Lab	X	X	X		X	X	X	X	
60	Test results release date/time	Lab requirement	All	Lab	X	X			X	X	X	X	
61	Ordering Provider	Lab requirement	All	Blanket Order	X	X			X			X	
62	Ordering Provider NPI	Lab requirement	All	Blanket Order					X			X	

Attachment 3 to Appendix A-1

DRAFT

**TO BE USED FOR CITY AND COUNTY OF SAN FRANCISCO (“City”)
EMPLOYEES AND GENERAL PUBLIC PATIENTS (collectively “Patients”)**

Organization: City and County of San Francisco, acting by and through its Department of Public Health

Form: Test Authorization and Request

To Contractor:

- A. City Employee Patients:** The City authorizes testing of City employees. Color must collect the City employee DSW number at registration (whether by pre-registration on-line, or in-person registration at the testing site).
- B. General Public:** The City also authorizes testing of the General Public (whether by pre-registration on-line, or in-person registration at the testing site).
- C. Patient Consent:** Each Patient must provide informed consent: (1) to submit to COVID-19 testing by Contractor; and (2) for the City to perform additional medical surveillance using deidentified and/or identifiable Patient COVID-19 test samples collected by Contractor.

By my signature below, I attest that I am XXXXXXXXXXXXXXXXXXXX with the authority and responsibility to authorize the ordering and delivery of COVID-19 Testing.

By signing below, I confirm that this Test Authorization and Request serves as a blanket physician order for Contractor to perform COVID-19 tests for such Patients.

I am also a physician duly licensed under California law and am authorized under applicable laws and regulations to request Contractor to perform COVID-19 testing.

Contractor hereby agrees to inform all Patients about the details of the COVID-19 test, including its capabilities and limitations, and to obtain each Patient’s written informed consent to submit to testing by Contractor and follow-on medical surveillance by the City.

In all cases, I hereby instruct Contractor to report each COVID-19 test result directly to the Patient and as required under San Francisco Health Officer Order C19-10 (attached) or otherwise as required by law and/or as required by the Agreement between City and Contractor.

Approved:

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Appendix B Calculation of Charges

1. Method of Payment

A. Contractor 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

2. Program Budgets and Final Invoice

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

Appendix B-1: End-to-End COVID-19 Testing Services

B. Contractor understands that, of the maximum dollar obligation listed in section 3.3.1 of this Agreement, **\$7,023,214** is included as a contingency amount and is neither to be used in Program Budgets attached to this Appendix, or available to Contractor 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. Contractor 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. Contractor agrees to fully comply with these laws, regulations, and policies/procedures.

C. Contractor 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. Contractor 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 Contractor 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 Contractor, will be paid unless the provider received advance written approval from the City Attorney.

Appendix B-1
Calculation of Charges
Budget
End-to-End COVID-19 Testing Services

1. Billable Items / Insurance Billing

Item #	Charge Item (1 Unit of Service = 1 Completed Test)	Cost
1	COVID-19 test at a Static Site (Inclusive of all items required in Appendix A-1)	\$75.00 / per test
2	COVID-19 test at a Mobile Site (Inclusive of all items required in Appendix A-1)	\$81.00 / per test
3	COVID-19 test offsite Lab Only (Inclusive of all items required in Appendix A-1)	\$75.00 / per test
4	Insurance Billing (7.5% collection fee) On a monthly basis Contractor shall report to the City the amount of tests that were submitted to third party payors for reimbursement and the amount received. Contractor shall then deduct the collection fee (7.5%) from the amount received. The remaining amount shall be listed as "Service Credit to the City" on the invoice and shall be applied to the next billing cycle. Any remaining credit or reimbursement from a third-party payor received after the contract has finished shall be paid directly to the City via a separate check.	

2. Budget Summary

Item	Budget Allocation Item	Budgeted Amount
1	Amount allocated for testing and insurance collection fees	\$58,526,786
	Contingency Amount (12%)	\$7,023,214
	Total Not to Exceed Amount	\$65,550,000

Appendix C
Reserved

Appendix D FEMA CONTRACT REQUIREMENTS

- 1. Contract Requirements.** This contract may be eligible for FEMA funding. FEMA requires inclusion of the following contract provisions for procurement under exigent or emergency circumstances. The Parties must comply with these provisions as a minimum. In the event of a conflict with other provisions in this contract that address the same or a similar requirement, the provisions that are stricter and impose the greater duties upon Contractor shall apply.
- 2. Remedies for Breach.** In addition to all other remedies included in this contract, Contractor shall, at a minimum, be liable to the City for all foreseeable damages it incurs as a result of Contractor violation or breach of the terms of this contract. This includes without limitation any costs incurred to remediate defects in Contractor's services and/or the additional expenses to complete Contractor's services beyond the amounts agreed to in this contract, after Contractor has had a reasonable opportunity to remediate and/or complete its services as otherwise set for in this contract. All remedies provided for in this contract may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.
- 3. Termination for Convenience.** City shall have the option, in its sole discretion, to terminate this Contract, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination in accordance with Section 8.1.2 of the Agreement. The notice shall specify the date on which termination shall become effective. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs reasonably necessary to effectuate demobilization from the work.
- 4. Termination for Cause.** On and after any event of default, City shall have the right to exercise its legal and equitable remedies, including without limitation, the right to terminate this contract for cause or to seek specific performance of all or any part of this contract. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any event of default. Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this contract or any other contract between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such event of default and any liquidated damages due from Contractor pursuant to the terms of this contract or any other contract.
- 5. Work Hours and Safety Standards.** If this contract is for a price in excess of \$100,000, and involves the employment of mechanics or laborers, Contractor agrees as follows:

 - A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor(s) shall be liable to

the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.

D. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

E. This Section 5 does not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6. Rights to Inventions. If FEMA's funding for this contract meets the definition of "funding agreement," and if this contract constitutes a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work, the City agrees to comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, and any implementing regulations issued by FEMA.

7. Clean Air Act. If this contract is for a price in excess of \$150,000, Contractor agrees as follows:

A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

B. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

8. Federal Water Pollution Act. If this contract is for a price in excess of \$150,000, Contractor agrees as follows:

A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

B. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Debarment and Suspension. If this contract is for a price in excess of \$25,000, Contractor agrees as follows:

A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Procurement of Recovered Materials

A. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

11. Time and Material Contracts. To the extent this contract includes work that is paid on a time and material basis, such work must have a guaranteed maximum price (GMP). The GMP is set forth in the body of this contract. The GMP constitutes a ceiling price that Contractor exceeds at its own risk.

12. MBE/WBE Outreach. Contractor must, at a minimum, take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used as Subcontractors on this Project:

A. Place qualified small and minority businesses and women's business enterprises on Contractor's solicitation list for this Project;

B. Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources for this Project;

C. Divide the subcontracts, when feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

D. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

E. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

13. Access to Records. The following access to records requirements apply to this contract:

A. The Contractor agrees to provide City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

D. In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

14. Department of Homeland Security Seal, Logo, and Flags. The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

15. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

16. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

17. Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

18. Byrd Anti-Lobbying Certification.

A. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification pursuant to the Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352, as amended. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

B. If this contract is for a price of \$100,000 or more, Contractor, and its lower tiers, must sign and submit to the City the following certification:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, **Color Health, Inc.** certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the

provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

DocuSigned by:

06425BDC4DBC4FD...

Signature of Contractor's Authorized Official

Caroline Savello, Chief Commercial Officer
Name and Title of Contractor's Authorized Official

02/19/2021 | 4:40 PM PST

Date



San Francisco Department of Public Health

Business Associate Agreement

This Business Associate Agreement (“BAA”) supplements and is made a part of the contract by and between the City and County of San Francisco, the Covered Entity (“CE”), and Contractor, the Business Associate (“BA”) (the “Agreement”). To the extent that the terms of the Agreement are inconsistent with the terms of this BAA, the terms of this BAA shall control.

RECITALS

A. CE, by and through the San Francisco Department of Public Health (“SFDPH”), wishes to disclose certain information to BA pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

B. For purposes of the Agreement, CE requires Contractor, even if Contractor is also a covered entity under HIPAA, to comply with the terms and conditions of this BAA with respect to Contractor’s insurance billing services which it agrees to perform as a BA of CE; for clarity, the terms of this BAA shall not apply to services that Contractor performs in its capacity as a covered entity.

C. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated there under by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws, including, but not limited to, California Civil Code §§ 56, et seq., California Health and Safety Code § 1280.15, California Civil Code §§ 1798, et seq., California Welfare & Institutions Code §§5328, et seq., and the regulations promulgated there under (the “California Regulations”).

D. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(a) and (e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this BAA.

E. BA enters into agreements with CE that require the CE to disclose certain identifiable health information to BA. The parties desire to enter into this BAA to permit BA to have access to such information and comply with the BA requirements of HIPAA, the HITECH Act, and the corresponding Regulations.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

1. Definitions.

a. **Breach** means the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information, and shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402], as well as California Civil Code Sections 1798.29 and 1798.82.



San Francisco Department of Public Health

Business Associate Agreement

b. Breach Notification Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.

c. Business Associate is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information received from a covered entity, but other than in the capacity of a member of the workforce of such covered entity or arrangement, and shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

d. Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits any information in electronic form in connection with a transaction covered under HIPAA Regulations, and shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

e. Data Aggregation means the combining of Protected Information by the BA with the Protected Information received by the BA in its capacity as a BA of another CE, to permit data analyses that relate to the health care operations of the respective covered entities, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

f. Designated Record Set means a group of records maintained by or for a CE, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

g. Electronic Protected Health Information means Protected Health Information that is maintained in or transmitted by electronic media and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 C.F.R. Section 160.103. For the purposes of this BAA, Electronic PHI includes all computerized data, as defined in California Civil Code Sections 1798.29 and 1798.82.

h. Electronic Health Record means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.

i. Health Care Operations shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

j. Privacy Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

k. Protected Health Information or PHI means any information, including electronic PHI, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Sections 160.103 and 164.501. For the purposes of this BAA, PHI includes all medical information and health insurance information as defined in California Civil Code Sections 56.05 and 1798.82.

APPENDIX E



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l. Protected Information shall mean PHI provided by CE to BA or created, maintained, received or transmitted by BA on CE's behalf.

m. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system, and shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.

n. Security Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

o. Unsecured PHI means PHI that is not secured by a technology standard that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute, and shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. Obligations of Business Associate.

a. Attestations. Except when CE's data privacy officer exempts BA in writing, the BA shall complete the following forms, attached and incorporated by reference as though fully set forth herein, SFDPH Attestations for Privacy (Attachment 1) and Data Security (Attachment 2) within sixty (60) calendar days from the execution of the Agreement. If CE makes substantial changes to any of these forms during the term of the Agreement, the BA will be required to complete CE's updated forms within sixty (60) calendar days from the date that CE provides BA with written notice of such changes. BA shall retain such records for a period of seven years after the Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.

b. User Training. The BA shall provide, and shall ensure that BA subcontractors, provide, training on PHI privacy and security, including HIPAA and HITECH and its regulations, to each employee or agent that will access, use or disclose Protected Information, upon hire and/or prior to accessing, using or disclosing Protected Information for the first time, and at least annually thereafter during the term of the Agreement. BA shall maintain, and shall ensure that BA subcontractors maintain, records indicating the name of each employee or agent and date on which the PHI privacy and security trainings were completed. BA shall retain, and ensure that BA subcontractors retain, such records for a period of seven years after the Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.

c. Permitted Uses. BA may use, access, and/or disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the Agreement and BAA, or as required by law. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE [45 C.F.R. Sections 164.502, 164.504(e)(2), and 164.504(e)(4)(i)].



San Francisco Department of Public Health

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d. Permitted Disclosures. BA shall disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the Agreement and BAA, or as required by law. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2 (n) of this BAA, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)]. BA may disclose PHI to a BA that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit Protected Information on its behalf, if the BA obtains satisfactory assurances, in accordance with 45 C.F.R. Section 164.504(e)(1), that the subcontractor will appropriately safeguard the information [45 C.F.R. Section 164.502(e)(1)(ii)].

e. Prohibited Uses and Disclosures. BA shall not use or disclose Protected Information other than as permitted or required by the Agreement and BAA, or as required by law. BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the Protected Information solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(1)(vi)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Agreement.

f. Appropriate Safeguards. BA shall take the appropriate security measures to protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of the CE, and shall prevent any use or disclosure of PHI other than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including, but not limited to, 45 C.F.R. Sections 164.306, 164.308, 164.310, 164.312, 164.314, 164.316, and 164.504(e)(2)(ii)(B). BA shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316, and 42 U.S.C. Section 17931. BA is responsible for any civil penalties assessed due to an audit or investigation of BA, in accordance with 42 U.S.C. Section 17934(c).

g. Business Associate's Subcontractors and Agents. BA shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of BA, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph 2.f. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2) through (e)(5); 45 C.F.R. Section 164.308(b)]. BA shall mitigate the effects of any such violation.



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h. Accounting of Disclosures. Within ten (10) calendar days of a request by CE for an accounting of disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents and subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935 (c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents and subcontractors for at least seven (7) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure [45 C.F.R. 164.528(b)(2)]. If an individual or an individual's representative submits a request for an accounting directly to BA or its agents or subcontractors, BA shall forward the request to CE in writing within five (5) calendar days.

i. Access to Protected Information. BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within (5) days of request by CE to enable CE to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains Protected Information in electronic format, BA shall provide such information in electronic format as necessary to enable CE to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. 164.524.

j. Amendment of Protected Information. Within ten (10) days of a request by CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA and its agents and subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment or other documentation to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

k. Governmental Access to Records. BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BA shall provide CE a copy of any Protected Information and other documents and records that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.

l. Minimum Necessary. BA, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the intended purpose of such use, disclosure, or



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request. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BA understands and agrees that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary” to accomplish the intended purpose in accordance with HIPAA and HIPAA Regulations.

m. Data Ownership. BA acknowledges that BA has no ownership rights with respect to the Protected Information.

n. Notification of Breach. BA shall notify CE within 10 calendar days of any breach of Protected Information; any use or disclosure of Protected Information not permitted by the BAA; any Security Incident (except as otherwise provided below) related to Protected Information, and any use or disclosure of data in violation of any applicable federal or state laws by BA or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BA to have been, accessed, acquired, used, or disclosed, as well as any other available information that CE is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited, to 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BA shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 42 U.S.C. Section 17932; 45 C.F.R. 164.410; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]

o. Breach Pattern or Practice by Business Associate’s Subcontractors and Agents. Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(iii), if the BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent’s obligations under the Contract or this BAA, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the contractual arrangement with its subcontractor or agent, if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent’s obligations under the Contract or this BAA within five (5) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

3. Termination.

a. Material Breach. A breach by BA of any provision of this BAA, as determined by CE, shall constitute a material breach of the Agreement and this BAA and shall provide grounds for immediate termination of the Agreement and this BAA, any provision in the AGREEMENT to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii).]

b. Judicial or Administrative Proceedings. CE may terminate the Agreement and this BAA, effective immediately, if (i) BA is named as defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the



San Francisco Department of Public Health

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HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

c. Effect of Termination. Upon termination of the Agreement and this BAA for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of Section 2 of this BAA to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(2)(ii)(J)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

d. Civil and Criminal Penalties. BA understands and agrees that it is subject to civil or criminal penalties applicable to BA for unauthorized use, access or disclosure of Protected Information in accordance with the HIPAA Regulations and the HITECH Act including, but not limited to, 42 U.S.C. 17934 (c).

e. Disclaimer. CE makes no warranty or representation that compliance by BA with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations or corresponding California law provisions will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

4. Amendment to Comply with Law.

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable state or federal laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the updated standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable state or federal laws. CE may terminate the Agreement upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Agreement or this BAA when requested by CE pursuant to this section or (ii) BA does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

5. Reimbursement for Fines or Penalties.

In the event that CE pays a fine to a state or federal regulatory agency, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible access, use or disclosure of PHI by BA or its

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

subcontractors or agents, then BA shall reimburse CE in the amount of such fine or penalties or damages within thirty (30) calendar days from City's written notice to BA of such fines, penalties or damages.

Attachment 1 – SFDPH Privacy Attestation, version 06-07-2017

Attachment 2 – SFDPH Data Security Attestation, version 06-07-2017

Office of Compliance and Privacy Affairs
San Francisco Department of Public Health
101 Grove Street, Room 330, San Francisco, CA 94102
Email: compliance.privacy@sfdph.org
Hotline (Toll-Free): 1-855-729-6040

Contractor Name:	Color Health, Inc.	Contractor City Vendor ID	
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PRIVACY ATTESTATION

INSTRUCTIONS: Contractors and Partners who receive or have access to health or medical information or electronic health record systems maintained by SFPDH must complete this form. Retain completed Attestations in your files for a period of 7 years. Be prepared to submit completed attestations, along with evidence related to the following items, if requested to do so by SFPDH.

Exceptions: If you believe that a requirement is Not Applicable to you, see instructions below in Section IV on how to request clarification or obtain an exception.

I. All Contractors.

DOES YOUR ORGANIZATION...						Yes	No*
A	Have formal Privacy Policies that comply with the Health Insurance Portability and Accountability Act (HIPAA)?					<input checked="" type="checkbox"/>	<input type="checkbox"/>
B	Have a Privacy Officer or other individual designated as the person in charge of investigating privacy breaches or related incidents?					<input checked="" type="checkbox"/>	<input type="checkbox"/>
	If yes:	Name & Title:	William Gregorian, Head of Information Security	Phone #	(650) 590-0248		
C	Require health information Privacy Training upon hire and annually thereafter for all employees who have access to health information? [Retain documentation of trainings for a period of 7 years.] [SFPDH privacy training materials are available for use; contact OCPA at 1-855-729-6040.]					<input checked="" type="checkbox"/>	<input type="checkbox"/>
D	Have proof that employees have signed a form upon hire and annually thereafter, with their name and the date, acknowledging that they have received health information privacy training? [Retain documentation of acknowledgement of trainings for a period of 7 years.]					<input checked="" type="checkbox"/>	<input type="checkbox"/>
E	Have (or will have if/when applicable) Business Associate Agreements with subcontractors who create, receive, maintain, transmit, or access SFPDH's health information?					<input checked="" type="checkbox"/>	<input type="checkbox"/>
F	Assure that staff who create, or transfer health information (via laptop, USB/thumb-drive, handheld), have prior supervisorial authorization to do so AND that health information is only transferred or created on encrypted devices approved by SFPDH Information Security staff?					<input checked="" type="checkbox"/>	<input type="checkbox"/>

II. Contractors who serve patients/clients and have access to SFPDH PHI, must also complete this section.

If Applicable: DOES YOUR ORGANIZATION...						Yes	No*
G	Have (or will have if/when applicable) evidence that SFPDH Service Desk (628-206-SERV) was notified to de-provision employees who have access to SFPDH health information record systems within 2 business days for regular terminations and within 24 hours for terminations due to cause?					<input type="checkbox"/>	<input checked="" type="checkbox"/>
H	Have evidence in each patient's / client's chart or electronic file that a Privacy Notice that meets HIPAA regulations was provided in the patient's / client's preferred language? (English, Cantonese, Vietnamese, Tagalog, Spanish, Russian forms may be required and are available from SFPDH.)					<input checked="" type="checkbox"/>	<input type="checkbox"/>
I	Visibly post the Summary of the Notice of Privacy Practices in all six languages in common patient areas of your treatment facility?					<input type="checkbox"/>	<input checked="" type="checkbox"/>
J	Document each disclosure of a patient's/client's health information for purposes <u>other than</u> treatment, payment, or operations?					<input checked="" type="checkbox"/>	<input type="checkbox"/>
K	When required by law, have proof that signed authorization for disclosure forms (that meet the requirements of the HIPAA Privacy Rule) are obtained PRIOR to releasing a patient's/client's health information?					<input checked="" type="checkbox"/>	<input type="checkbox"/>

III. ATTEST: Under penalty of perjury, I hereby attest that to the best of my knowledge the information herein is true and correct and that I have authority to sign on behalf of and bind Contractor listed above.

ATTESTED by Privacy Officer or designated person	Name: (print)	William Gregorian	Signature	William Gregorian	Date	01/21/2020
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IV. *EXCEPTIONS: If you have answered "NO" to any question or believe a question is Not Applicable, please contact OCPA at 1-855-729-6040 or compliance.privacy@sfdph.org for a consultation. All "No" or "N/A" answers must be reviewed and approved by OCPA below.

EXCEPTION(S) APPROVED by OCPA	Name (print)		Signature		Date	
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Contractor Name:	Color Health, Inc.	Contractor City Vendor ID	
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DATA SECURITY ATTESTATION

INSTRUCTIONS: Contractors and Partners who receive or have access to health or medical information or electronic health record systems maintained by SFDPH must complete this form. Retain completed Attestations in your files for a period of 7 years. Be prepared to submit completed attestations, along with evidence related to the following items, if requested to do so by SFDPH.

Exceptions: If you believe that a requirement is Not Applicable to you, see instructions in Section III below on how to request clarification or obtain an exception.

I. All Contractors.

DOES YOUR ORGANIZATION...		Yes	No*	
A	Conduct assessments/audits of your data security safeguards to demonstrate and document compliance with your security policies and the requirements of HIPAA/HITECH at least every two years? [Retain documentation for a period of 7 years]	✓		
B	Use findings from the assessments/audits to identify and mitigate known risks into documented remediation plans?	✓		
	Date of last Data Security Risk Assessment/Audit:			10/18/2019
	Name of firm or person(s) who performed the Assessment/Audit and/or authored the final report:			Strata Consulting
C	Have a formal Data Security Awareness Program?	✓		
D	Have formal Data Security Policies and Procedures to detect, contain, and correct security violations that comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)?	✓		
E	Have a Data Security Officer or other individual designated as the person in charge of ensuring the security of confidential information?	✓		
	If yes: Name & Title: William Gregorian, Head of Information Security Phone #: (650) 590-0248 Email: william.gregorian@color.com			
F	Require Data Security Training upon hire and annually thereafter for all employees who have access to health information? [Retain documentation of trainings for a period of 7 years.] [SFDPH data security training materials are available for use; contact OCPA at 1-855-729-6040.]	✓		
G	Have proof that employees have signed a form upon hire and annually, or regularly, thereafter, with their name and the date, acknowledging that they have received data security training? [Retain documentation of acknowledgement of trainings for a period of 7 years.]	✓		
H	Have (or will have if/when applicable) Business Associate Agreements with subcontractors who create, receive, maintain, transmit, or access SFDPH's health information?	✓		
I	Have (or will have if/when applicable) a diagram of how SFDPH data flows between your organization and subcontractors or vendors (including named users, access methods, on-premise data hosts, processing systems, etc.)?	✓		

II. ATTEST: Under penalty of perjury, I hereby attest that to the best of my knowledge the information herein is true and correct and that I have authority to sign on behalf of and bind Contractor listed above.

ATTESTED by Data Security Officer or designated person	Name: (print)	William Gregorian	Signature	William Gregorian	Date	01/21/2020
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III. *EXCEPTIONS: If you have answered "NO" to any question or believe a question is Not Applicable, please contact OCPA at **1-855-729-6040** or compliance.privacy@sfdph.org for a consultation. All "No" or "N/A" answers must be reviewed and approved by OCPA below.

EXCEPTION(S) APPROVED by OCPA	Name (print)		Signature		Date	
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**DEPARTMENT OF PUBLIC HEALTH CONTRACTOR
FEE FOR SERVICE STATEMENT OF DELIVERABLES AND INVOICE**

CONTRACTOR: Color Health
Address: 831 Mitten Road, Suite 100,
Burlingame CA 94010

Telephone: 650-651-7116
FAX:

CONTRACT TERM: 4/6/2021 - 3/31/2022

CONTRACT NAME: End-to-End COVID-19 Testing Services

PROGRAM EXHIBIT: Appendix A-1 / B-1

Control Number

Contract Purchase Order PO No.

Fund Source: COVID-19 / FEMA

Invoicing Period:

Invoice Number:

Deliverables	Total contracted UOS (hours)	UOS Delivered THIS PERIOD	UNIT RATE Per Test	AMOUNT DUE	UOS Delivered TO DATE	% OF TOTAL	Remaining Units to be Delivered
COVID-19 test at a Static Site (per test)			\$75.00				
COVID-19 test at a Mobile Site (per test)			\$81.00				
COVID-19 test offsite Lab Only (per test)			\$75.00				
Insurance Billing							
Service Credit to City							
TOTAL EXPENSES					NOTES: See Appendix B-1 for details		
LESS: Initial Operational Cost Advance Recovery							
Other Adjustments:							
REIMBURSEMENT							

I certify that the information provided above is, to the best of my knowledge, complete and accurate; the amount requested for reimbursement is in accordance with the contract approved for services provided under the provision of that contract. Full justification and backup records for those claims are maintained in our office at the address indicated.

Signature: _____

Date: _____

Title: _____

Send to: SFDPH/SFGH
101 Grove St. Rm. 308
San Francisco, CA 94102
Attn: Tobi Skotnes

SFDPH/LHH Authorization For Payment:

By: _____
Tobi Skotnes

Date: _____

