

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

First Amendment

THIS AMENDMENT (this “Amendment”) is made as of **February 1, 2024**, in San Francisco, California, by and between **McKesson Plasma and Biologics LLC** (“Distributor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

Recitals

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

WHEREAS, City and Distributor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and increase the contract amount; and

WHEREAS, this Agreement was procured as required by San Francisco Administrative Code Chapter 21A.2, including the requirement that the City buy ninety percent (90%) of its pharmaceutical supply from Distributor in order to obtain Prime Vendor pricing from Distributor; and

WHEREAS, this Contract is deemed exempt from Chapter 14B of the San Francisco Administrative Code and there is no Local Business Entity (“LBE”) subcontracting participation requirement for this Agreement; and

WHEREAS, the City’s Department of Public Health Board of Supervisors approved the Original Agreement by Resolution No. 124-20 (File No. 200013) on March 24, 2020 (attached).

WHEREAS, the City’s Board of Supervisors approved this First Amendment to the Agreement by Resolution No. [REDACTED] on [REDACTED]

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

Article 1 Definitions

The following definitions shall apply to this Amendment:

1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated February 1, 2020 between Distributor and City.

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

Article 2 Modifications of Scope to the Agreement

The Agreement is hereby modified as follows:

2.1 **Article 2. Term of Agreement.** Section 2.1 **Term** of the Agreement currently reads as follows:

The term of this Agreement shall commence on February 1, 2020 and expire on January 31, 2024, so long Distributor has a GPO Base Agreement in place, unless earlier terminated as otherwise provided herein. Both Parties understand and agree that within one year in advance of the expiration date, the City must commence its process to renew and/or replace this Agreement.

In the event that such renewal is not completed before the expiration of the Term, the Holdover Extension of Section 2.2 will apply.

Such section is hereby amended in its entirety to read as follows:

The term of this Agreement shall commence on February 1, 2020, and expire on June 30, 2028, so long Distributor has a GPO Base Agreement in place, unless earlier terminated as otherwise provided herein. Both Parties understand and agree that within one year in advance of the expiration date, the City must commence its process to renew and/or replace this Agreement. In the event that such renewal is not completed before the expiration of the Term, the Holdover Extension of Section 2.2 will apply.

2.2 **Section 3.4 Guaranteed Maximum Price.** Section 3.4 **Guaranteed Maximum Price** of the Agreement currently reads as follows:

Section 3.4 Guaranteed Maximum Price.

Distributor 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 in material conformance with the requirements set forth in this Agreement. Payment shall be made in conformance with Appendix A, Attachment 3, unless the City notifies the Distributor that a dispute as to the invoice exists in accordance with Section 11.6.1. In no event shall the amount of this Agreement exceed TWO HUNDRED NINETY FIVE MILLION NINE HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED NINETY DOLLARS (\$295,934,790).

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. Contested Amounts shall be resolved pursuant Section 11.6 (Dispute Resolution). Late payment charges, if applicable, shall be resolved pursuant to Appendix A, Attachment 3, of the Agreement in accordance with to the Base Agreement terms, and may be paid from budgeted contingency funds as appropriate.

Such section is hereby amended in its entirety to read as follows:

Section 3.4 Guaranteed Maximum Price.

Distributor 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 in material conformance with the requirements set forth in this Agreement. Payment shall be made in conformance with Appendix A, Attachment 3, unless the City notifies the Distributor that a dispute as to the invoice exists in accordance with Section 11.6.1. In no event shall the amount of this Agreement exceed ONE THOUSAND FOUR HUNDRED SIXTY SIX MILLION SEVEN HUNDRED THIRTY SEVEN THOUSAND EIGHT HUNDRED TWENTY FOUR DOLLARS (\$1,466,737,824). 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. Contested Amounts shall be resolved pursuant Section 11.6 (Dispute Resolution). Late payment charges, if applicable, shall be resolved pursuant to

Appendix A, Attachment 3, of the Agreement in accordance with to the Base Agreement terms, and may be paid from budgeted contingency funds as appropriate.

2.3 **Appendix A.** Appendix A is hereby replaced in its entirety by Appendix A dated October 2, 2023, and attached to this Amendment and fully incorporated within the Agreement. To the extent the Agreement refers to Appendix A in any place, the true meaning shall be Appendix A, which is a correct and updated version.

2.4 **Attachment 1 to Appendix B-1.** Attachment 1 to Appendix B-1 dated October 2, 2023 is hereby attached to this Amendment and fully incorporated within the Agreement.

2.5 Attach Resolution No. 124-20 (File No. 200013) dated March 24, 2020

Article 3 Updates of Standard Terms to the Agreement (Reserved)

The following provisions are hereby added to Article 10 of the Agreement and incorporated herein by reference:

10.20 **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.

10.21 **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.

10.22 **Disposition of Confidential Information.** Upon request of City or termination or expiration of this Agreement, and pursuant to any document retention period required by this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all data given to or collected by Contractor on City’s behalf, which includes all original media. Once Contractor has received written confirmation from City that City’s Data has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all City Data from its servers, any hosted environment Contractor has used in performance of this Agreement, including its subcontractors environment(s), 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. Secure disposal shall be accomplished by “clearing,” “purging” or “physical destruction,” in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88 or most current industry standard.

Article 4 Effective Date

Each of the modifications set forth in Articles 2 and 3 shall be effective on and after February 1, 2024

Article 5 Legal Effect

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

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

CITY

DISTRIBUTOR

Recommended by:

McKesson Plasma and Biologics LLC

Grant Colfax, MD
Director of Health
Department of Public Health

DocuSigned by:
Scott Kemme
76442F566FD0426...

Scott Kemme President, McKesson Health Systems
16578 Collections Center Dr.
Chicago IL 606931-5454

City Supplier Number: 0000038525

Approved as to Form:

David Chiu
City Attorney

By: _____
Louise S. Simpson
Deputy City Attorney

APPENDIX A TO THE P-250 – McKESSON PLASMA AND BIOLOGICS LLC SUPPLY AGREEMENT2

1. PRIME VENDOR COMMITMENTS:2

2. AUTOMATIC ALTERNATE SOURCING: (Reserved).....2

3. COST REPORTING:2

4. CHANGE IN MEMBER STATUS:.....2

5. OWN USE:.....2

ATTACHMENT 1 - LIST OF CITY FACILITIES4

ATTACHMENT 2 – MEMBER MARKUP AND COMMITMENTS5

1. MEMBER MARKUP:.....5

2. MINIMUM COMMITMENTS:.....5

3. PAYMENT TERMS:6

4. CSOS MARKUP: (Reserved)6

5. DELIVERY FREQUENCY: (Reserved).....6

6. REBATES/DISCOUNTS: (Reserved)6

7. CONDITION FOR REBATES/DISCOUNTS: (Reserved).....6

8. DISTRIBUTOR’S DUTIES:.....6

9. CLASS OF TRADE:6

10. DEFINITION OF COST; MEMBER MARKUP:.....6

11. PRODUCT SUPPLY:7

12. ORDERING:10

13. INVOICES:11

14. ADDITIONAL REQUIREMENTS:12

15. DISTRIBUTOR SALES REPRESENTATIVES AND CUSTOMER SERVICE:13

ATTACHMENT 3 - CITY PAYMENT TERMS.....14

1. WEEKLY STATEMENT PAYMENT14

2. 15-DAY INVOICE PAYMENT15

3. SEMI-MONTHLY STATEMENT PAYMENT15

4. MONTHLY STATEMENT PAYMENT15

ATTACHMENT 4 - PRODUCT RETURN POLICY16

ATTACHMENT 5: DISTRIBUTOR’S CUSTOMER FACING MANAGEMENT REPORTING SYSTEM CAPABILITIES18

ATTACHMENT 6: NON-INJECTABLE GENERICS AUTO SHIP PROGRAM DESCRIPTION.....19

ATTACHMENT 7: DISASTER RESPONSE PLAN20

APPENDIX A TO THE P-250 – McKESSON PLASMA AND BIOLOGICS LLC SUPPLY AGREEMENT

1. PRIME VENDOR COMMITMENTS:

Throughout the Agreement Term, in order to receive the Member Markup, City must not order less than ninety percent (90%) of all dollars spent on Products by using Distributor as its prime vendor for the purchase of such Products normally purchased through plasma and specialty pharmaceutical distributors (“Prime Vendor”). To the extent that Distributor is unable to supply such Products, those purchases shall be excluded from the ninety percent (90%) calculation. City’s compliance with the foregoing ninety percent (90%) Prime Vendor commitment will be measured during each quarter during the Term, beginning on the Effective Date. Upon request by Distributor, City should provide documentation denoting total purchase dollars available to Distributor in order to verify compliance with the Prime Vendor commitment set forth above. For purposes of clarification (i) the ninety percent (90%) Prime Vendor purchase threshold set forth in this paragraph is a condition for receiving the applicable Member Markup and (ii) City’s failure to meet the ninety percent (90%) Prime Vendor threshold as set forth herein shall not constitute a breach of City’s obligations hereunder, but Distributor may, at its option and in its sole discretion, instead of seeking any other remedy available hereunder, upon sixty (60) days’ notice to City, proceed under this Appendix A such that such City will only receive Secondary Services under the Agreement (as set forth in Section B of Exhibit C.9 of the Base Agreement) for the quarter following the quarter in which such City fails to meet the ninety percent (90%) Prime Vendor commitment.

2. AUTOMATIC ALTERNATE SOURCING: (Reserved)

3. COST REPORTING:

City will comply with all laws, including reporting or reflecting discounts, rebates and other price reductions pursuant to 42 U.S.C. §1320a-7b(b)(3)(A) on cost reports or claims submitted to federal or state healthcare programs, retaining invoices and related pricing documentation and making them available on request to healthcare program representatives. Thus, City or any Facility, if applicable, will accurately report, under any state or federal program which provides cost or charge based reimbursements for the Products and services covered by this Agreement, the net cost actually paid by City or any Facility. Distributor will comply with all laws, including requirements under 42 U.S.C. §1320a-7b(b)(3)(A) to (i) disclose on invoices or statements the amount of all discounts, rebates and other price reductions on Products purchased hereunder, and (ii) provide City with notice of City’s obligations to report and disclose such discounts, rebates and other price reductions. City and any Facility, if applicable, will each accurately report pricing, together with any reductions in price, in connection with any federal or state pricing survey (e.g., National Average Drug Acquisition Cost Survey).

4. CHANGE IN MEMBER STATUS:

Distributor understands and agrees that if during the Term of this Agreement the City’s status as a GPO member changes, any change to the terms of this Agreement will require as appropriate a new agreement or a Formal Amendment pursuant to Section 3.3.1 of the Agreement.

5. OWN USE:

City and Facilities represent and warrant that (i) prescription Products being purchased for dispensing or administration to patients pursuant to a legitimate prescription, and (ii) any subsequent resale by City or any Facility will be in compliance with applicable law and to a licensed healthcare provider for its

dispensing or administration to patients pursuant to a legitimate prescription. City and Facilities shall defend, indemnify and hold Distributor harmless from any and all liability arising out of or due to nonadherence with such representation and warranty.

ATTACHMENT 1 - LIST OF CITY FACILITIES

Facility Acct ID	Facility Name	Address	City Name	State	Zip
52398	SFGH OP PHCY WAC A34	1001 POTRERO AVE RM1P2	SAN FRANCI SCO	CA	94110
98467	LAGUNA HONDA HOSPITAL	375 LAGUNA HONDA BLVD	SAN FRANCI SCO	CA	94116
098806	SAN FRAN GH MAIN OP-B PHS	1001 POTRERO AVE RM 1P2	SAN FRANCI SCO	CA	94110
171904	SFGH PHCY PUR PHS	1001 POTRERO AVE.	SAN FRANCI SCO	CA	94110
235070	SFGH PUR WAC A34	1001 POTRERO AVE.	SAN FRANCI SCO	CA	94110
235392	SAN FRANCISCO GH PHCY PUR	1001 POTRERO AVE.	SAN FRANCI SCO	CA	94110
518231	SFDPH/ADULT IM CL/STIER	101 GROVE STREET ROOM 102	SAN FRANCI SCO	CA	94102
900038	SFGH MED CENTER PHS	1001 POTRERO AVE.	SAN FRANCI SCO	CA	94110
900039	SFGH MED CENTER	1001 POTRERO AVE.	SAN FRANCI SCO	CA	94110

ATTACHMENT 2 – MEMBER MARKUP AND COMMITMENTS

1. MEMBER MARKUP:

In lieu of any other price reductions available in the Base Agreement, commencing on the Effective Date and for the entire duration of the Agreement Term, for subcutaneous and intravenous immune globulin, albumin factor, hyperimmune, and hemostasis products (collectively, “Plasma Products”) excluding any City purchases of 340B Plasma Products, City will receive the applicable Member Markup reflected on the following grid, subject to adjustment for City’s average total monthly Net Purchase Volume and invoice management practice. This Member Markup shall be adjusted quarterly based upon City’s average total monthly Net Purchase Volume over the prior calendar quarter. Distributor shall inform City of any change in the regular course of each quarterly business review meeting. All pharmaceutical products distributed by Distributor that are not Plasma Products (“Specialty Products”) will be priced at Cost, without any Member Markup or Markup Modifier. Distributor shall not increase any Member Markup matrix below during the Term.

City’s Average Total Monthly Net Purchase Volume Annual Aggregated Spend	Weekly Statement Pay	15 Day Statement Pay	30 Day Invoice Payment
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

- a. Consignment Incentive. In the event City elects to execute products consignment agreement with Distributor, Distributor shall decrease the Member Markup by - [REDACTED] ([REDACTED]) for City.
- b. For purposes of this Attachment 2, [REDACTED]
- c. For the avoidance of doubt, Distributor will pay Administrative Fees to the GPO as set forth in the Base Agreement.

2. MINIMUM COMMITMENTS:

The Member Markup is conditioned upon City maintaining, and City agrees to and shall maintain, the following minimum commitments (“Minimum Commitments”). If City fails to meet the Minimum Commitments during any calendar quarter during the Agreement Term, in addition to other remedies herein, Distributor will have the right to open negotiations to reasonably adjust the Member Markup matrix. As soon as practicable after receipt of such markup adjustment request by City, Distributor and City shall meet and begin good faith negotiations. If, at the end of the sixty (60) days following receipt of the adjustment request by City, Distributor and City have been unable to agree on satisfactory pricing, minimum

commitments, and/or other terms, Distributor shall have the right to terminate for breach in accordance with Article 8 of the Agreement and/or the right to reprice.

- a. a minimum monthly Net purchase volume [REDACTED] (“Net Purchase Volume”).

3. PAYMENT TERMS:

The above listed payment terms, as more fully described in Attachment 3 herein, will be made available to City so long as justified under Distributor’s general credit policies. City may elect to move to another payment term by providing written notice to Distributor. Distributor reserves the right to adjust pricing to the corresponding payment term that most closely matches City’s demonstrated payment history by providing notice to City. Any price change that increases the GMP must be by Formal Amendment in accordance with Section 3.3.1 of the Agreement.

- 4. **CSOS MARKUP: (Reserved)**
- 5. **DELIVERY FREQUENCY: (Reserved)**
- 6. **REBATES/DISCOUNTS: (Reserved)**
- 7. **CONDITION FOR REBATES/DISCOUNTS: (Reserved)**
- 8. **DISTRIBUTOR’S DUTIES:**

Distributor shall provide Services with respect to the purchasing and re-selling of Products to City, as required by the Base Agreement.

9. CLASS OF TRADE:

Distributor shall abide by the City’s GPO class of trade designation.

10. DEFINITION OF COST; MEMBER MARKUP:

- a. **In General.** Except as set forth herein or as otherwise agreed by City and Distributor, Distributor shall invoice City for purchases of Products at Cost (as defined below) plus, for Plasma Products only (excluding any City purchases of 340B Plasma Products) the Member Markup (as defined above) determined based on certain criteria applicable to City; additionally, the criteria includes, without limitation, the payment terms ("City Payment Terms") as defined in Attachment 3 hereto.

- b. **Cost for Contract Products.** [REDACTED]

- Cost for Non-Contract Products.** [REDACTED]

[REDACTED]

11. PRODUCT SUPPLY:

- a. **Distribution Centers.** Distributor may have multiple warehouses, or distribution centers, in different geographic locations (each, a "DC") and shall assign City to a primary DC. Thereafter, Distributor shall provide City with at least ninety (90) days' prior written notice before assigning City to a different primary DC. Notwithstanding the foregoing, City acknowledges that as of the effective date of this Appendix A, Distributor has only one DC, which is located in Memphis, Tennessee, and City is assigned to that DC as of the Effective Date.
- b. **Product Warehousing.** Distributor shall warehouse, at its own expense, such quantities of Products as Distributor reasonably determines are necessary to satisfy the City's purchasing requirements. Distributor's determination of such purchasing requirements shall be based on City's purchasing history, as well as the estimated monthly usage data that City provides to Distributor with all Product stocking requests [REDACTED].
[REDACTED]. Distributor shall provide City with a written procedure or an electronic application for City's Product stocking requests. Subject to availability and supplier lead times and, for new suppliers, subject to time for submitting and processing applications and loading data, Distributor shall place Products in stock at DCs within ten (10) business days of the date of City's request or the date of receipt of City's notification of newly awarded products that either replace existing Contract Products.
- c. **Approval of Suppliers.** Distributor's Product warehousing obligations pursuant to this Section are subject to applicable suppliers meeting Distributor's reasonable standards and other criteria pertinent to Distributor's business, such as credit worthiness, liability insurance, good standing with Federal regulatory agencies such as the federal Food and Drug Administration ("FDA") and the Federal Drug Enforcement Administration.

- d. **Scheduled Deliveries.** Distributor shall make scheduled deliveries using contracted third party couriers or common carriers. Products will be delivered to City F.O.B. destination, freight prepaid and absorbed, except as otherwise set forth below, Monday through Friday (and Saturday, if applicable). Distributor shall provide City with an order delivery time window that meets City's reasonable needs, but may be subject to limitations of contracted third party couriers and common carriers. Distributor shall communicate to City in a timely manner any changes or delays to the delivery time. Distributor shall make scheduled deliveries in boxes or clean, reusable totes, using third party couriers, or common carriers. Distributor shall deliver temperature-sensitive Products in insulated containers capable of maintaining the appropriate temperature during transport.
- e. **Order Transmission Deadlines.** Distributor's order transmission deadlines for City shall be no earlier than 7:00 p.m. CST Sunday through Thursday for next day Product delivery. Distributor's order transmission deadline on Friday shall be no earlier than 4:00 p.m. CST for delivery on Saturday for those members that receive Saturday deliveries.
- f. **Emergency Deliveries.** Included as part of City's payment for Products and/or Services hereunder, Distributor shall provide [REDACTED] Emergency Delivery per calendar year, per City location (e.g., if City facility's inpatient pharmacy is separate from City facility's outpatient pharmacy, each location shall be entitled to [REDACTED] Emergency Delivery per calendar year included as part of City's payment for Products and/or Services hereunder). The Emergency Deliveries provided to City location can only be used by the account number for that location and cannot be used by any other account numbers. For purposes of this Section, an "Emergency Delivery" is defined as any of the following:
 - i. Weekend or holiday delivery (unless such delivery is a scheduled delivery for City);
 - ii. City contacting DC on a business day, and needing a Product delivered to City's pharmacy prior to the next scheduled delivery on an urgent basis;
 - iii. City contacting DC on a business day, but after order transmission deadline, to add on a Product or adjust Product quantity.

Beginning with the [REDACTED] Emergency Delivery in a year for a given City location, Distributor may charge City [REDACTED] per occurrence or Distributor's actual freight cost, whichever is lower. In the case of any Emergency Delivery that results in Distributor's costs grossly exceeding the [REDACTED] charge, Distributor shall notify City of such anticipated costs before accepting the Emergency Delivery request and, with City's prior consent which may be given verbally at the time of placing the order. Distributor may charge City an amount equal to Distributor's actual costs for completing such Emergency Delivery.

[REDACTED]

h. **Product Compliance/Quality.**

- i. **Product Compliance:** Distributor represents and warrants as follows, which representations and warranties shall survive the expiration or earlier termination of this Agreement:
 - a. The Products shall be distributed and sold by Distributor in compliance with applicable Federal, state and local laws; and
 - b. From the time of Distributor's receipt of Products from the applicable supplier to the date of delivery to the City, Products shall not be adulterated or misbranded by Distributor within the meaning of the Federal Food, Drug and Cosmetic Act, as amended.
- ii. **Product Condition.** Unless otherwise agreed upon by City, all Products shall be new and shall not be delivered to City if expired unless City accepts delivery after receiving prior notice from Distributor (which notice may be through Distributor's McKesson Connect or any subsequent online ordering system) of the condition of such Products.
- iii. **Product Shelf Life.** Distributor shall deliver Products to City at least six (6) months prior to the expiration date of such Products. Distributor shall use its best efforts to deliver Products with the longest possible shelf life and the latest possible expiration dates. In the event that the only Product available is within six (6) months of its expiration date, Distributor shall notify City in writing of such dating. Upon receiving such notice, City may choose whether to accept any such Product.
- iv. **Product Integrity; Source of Products.** Distributor shall purchase all Products distributed and sold to City pursuant to this Agreement directly from the applicable manufacturer or the applicable manufacturer's exclusive distributor (as such terms are defined under the Drug Supply Chain Security Act). Distributor reserves the right to exclude any of the above entities that Distributor in its sole discretion determines is a gray market distributor.
- v. **Pass Through of Warranties, Representations, and Indemnity Obligations.** Distributor shall pass through to City any representations, warranties and rights and claims to defense and indemnity made by each supplier of a Product (including representations, warranties and rights and claims to defense and indemnity, relating to intellectual property, product liability or negligence) with respect to such Product, to the fullest extent permitted to be passed through by supplier. Nothing herein limits or obviates any right or remedies Distributor may have under its agreements with such suppliers. Furthermore, Distributor represents and warrants that it will make commercially reasonable efforts to (i) cooperate with all requests made by City to enforce such representations, warranties and rights and claims to defense and indemnity against such manufacturers and (ii) obtain consents from the manufacturers in passing through to the GPO and City such representations, warranties, and rights to defense and indemnification.
- vi. Distributor will not knowingly ship a Product for which it has received notice of recall.

- i. **Force Majeure.** Notwithstanding anything in this Agreement to the contrary, Distributor shall be excused from the performance of its obligations under this Agreement if, and for so long as, and only to the extent that, the non-performance of such obligations occurs by reason of any act of God, including but not limited to fire, flood, storm, earthquake, epidemic or natural disaster, or by reason of war, terrorism or national emergency and only to the extent such failure or delay in performance is not caused by Distributor's own fault or negligence ("Force Majeure"), provided that Distributor shall use commercially reasonable efforts to minimize the effects of the Force Majeure and resume performance. If such Force Majeure occurs unabated for a period of thirty (30) days or longer, the City may terminate this Agreement upon five (5) days written notice to Distributor. In addition, Distributor hereby agrees to use commercially reasonable efforts to deliver pharmaceutical products to City despite labor disputes, including delivering across picket lines and delivering to alternate delivery points; provided such activity does not put Distributor's employees', representatives', agents' or contractors' safety at risk.

12. ORDERING:

- a. **Distributor's Ordering Technology.** Included as part of City's payment for Products and/or Services hereunder, Distributor shall provide City the option to use the following systems to create, manage and transmit orders to Distributor:
 - i. Over-the-phone order taking capabilities; and
 - ii. A secure internet-based ordering application; and
 - iii. Exchange of standard Electronic Data Interchange ("EDI") transactions for ordering, order confirmation, and catalog creation and maintenance. For members that elect to use EDI to order from Distributor, City shall be responsible for all costs associated with equipping their facilities with EDI-capable software; provided, however, that Distributor shall not impose any fees on City as a result of using EDI as their ordering transmission method.
- b. **Purchase Orders.** Distributor shall accept City's orders, order supplements and order modifications on purchase orders delivered to Distributor via facsimile, telephone, or hard copy, through the preferred method of electronic order transmission using EDI through Distributor-provided technology as described in Attachment 2, Section 12(a) (Distributor's Ordering Technology), or through such other electronic method acceptable to Distributor. Such orders shall not add to, modify, or vary the terms of this Agreement. Distributor's ordering technology shall accommodate City's alphanumeric purchase order number.
- c. **Product Substitution.** Distributor shall have no unilateral right to substitute other products for any Product ordered.
- d. **Order Confirmation.**

Within twenty (20) minutes of City's order transmission, Distributor shall provide electronic confirmation of the transmitted order. The confirmation is an inventory commitment and shall include the following data: list of all Products ordered, quantity ordered, quantity to be shipped, reasons for Product unavailability, Product description, Product National Drug Code ("NDC") number, Distributor's Product number, invoice price per Product, each Product's extended invoice price for quantity committed, total invoice price for the

order, contract type description for each Product, and City's purchase order number. Contract type description examples include GPO contract, local or individual contract, and Distributor back-up contract.

13. INVOICES:

- a. **Invoice Information.** In addition to a packing slip, an invoice shall accompany each delivery of Products from Distributor or be made available through Distributor's web-based ordering system; provided, however, that for any order for which the delivery location is not the same as the City's location, shipping documentation may instead accompany such delivery instead of an invoice. Each invoice shall contain the price confirmed by Distributor at the time of City's order confirmation. For purposes of clarification, the price for a Product shall be locked in at the time of the order confirmation. Additionally, all invoices shall include, at a minimum, the following information (as applicable): invoice date, list of all Products ordered, Product quantity ordered, Product quantity shipped, reasons for Product unavailability, Product description (including supplier's name), Product number, Distributor's Product number, price per Product, each Product's extended price for quantity shipped, total price for the invoice (as set forth above), contract indicator for each Product, indications if Products are prescription, or non-prescription, City's purchase order number, Distributor's shipping address and shipping location's DEA number, Distributor invoice number or other applicable tracking number, and the payment due date. Distributor shall also provide members with the option of including the Global Location Number ("GLN") and Global Trade Identification Number ("GTIN") for each Product on an invoice, provided that City has provided such GLN and/or GTIN to Distributor in a format acceptable to Distributor. Distributor will separately invoice Controlled Substances (as defined herein).
- b. **Electronic Invoicing.** At City's election, Distributor shall invoice City electronically by using a standard EDI format or a customized format mutually agreed upon by City and Distributor. Distributor shall not charge City for such electronic invoicing.
- c. **Sales Taxes.** Sales taxes levied by any competent jurisdiction in which City or Distributor is located, based upon the transactions covered by this Agreement shall be passed on to the City by including a line item for the sales tax in the charge for the taxed Product and is also included in the Guaranteed Maximum Price.
- d. **Drop Shipment Invoice Services.** "Drop Shipments" are Products shipped from the supplier directly to City but invoiced to Distributor for the purpose of billing City. Upon request of City and with permission of the supplier and Distributor, Distributor shall provide invoices to City for Drop Shipments. Drop Shipments shall be invoiced at Cost plus any freight handling fee or other charge imposed by the supplier, without any Member Markup, and no additional fees will apply to the City for such Drop Shipments. In the event (i) Distributor elects to no longer carries a Product in a DC, provided such Product meets Distributor's reasonable minimum eligibility requirements to be carried by Distributor, or (ii) an entity affiliated with Distributor previously shipped a Product that is now shipped by Distributor, or (iii) an entity affiliated with Distributor ships a Product, or (iv) a Product is out of stock at City's DC, City may obtain a Drop Shipment from the supplier. In such an event, Distributor shall without exception invoice these Drop Shipments at Cost plus the applicable Member Markup under this Appendix A. All Drop

Shipments invoiced by the Distributor shall be added to the City's total purchase volume for the purposes of slotting the City in the Markup Matrix.

e. **Invoice Corrections.**

- i. **Denied Chargebacks.** "Denied Chargebacks" are invoices to City resulting from chargebacks for Products provided to City under applicable supplier agreements that are ultimately uncollectible from supplier despite Distributor's good faith efforts to collect from supplier. City shall not be responsible for any Denied Chargebacks dated later than sixty (60) days from an applicable Product's original invoice date.
- ii. **Overcharges and Undercharges.** Distributor shall thoroughly research City-reported price overcharges and any undercharges and shall use commercially reasonable efforts to respond to City with findings within five (5) business days of receipt of such report. Subject to supplier approval, if City was overcharged or undercharged as reported by City for a Contract Product, Distributor shall promptly either credit or, in its discretion, charge the City for the difference or credit the entire original purchase and deliver to City a revised invoice stating the correct contract price ("Billing Correction"). Distributor shall make Billing Corrections of which it is aware regardless of whether the City reported an overcharge.
- iii. **Non-Contract Product Undercharges.** Distributor shall research any City-reported undercharges and respond to City within ten (10) business days of the request. In addition, if Distributor discovers a price undercharge for a Non-Contract Product, Distributor shall promptly contact the affected City. City shall be responsible for any Billing Correction issued by Distributor to correct Non-Contract Product undercharges, provided that such Billing Correction is invoiced no later than sixty (60) days from the Product's original invoice date.

14. **ADDITIONAL REQUIREMENTS:**

- a. **Return of Products.** City has the right to return Products to Distributor in accordance with the terms set forth in Attachment 4 attached hereto.
- b. **Product Recalls.** If Distributor is made aware of a Product recall impacting Products distributed to City by Distributor, Distributor shall provide written notice to City thereof within one (1) business day after Distributor has received confirmation of the relevant details of such recall from the applicable supplier (which notice, may be made electronically through Distributor's McKesson Connect or any subsequent online ordering system). This Section does not apply to recalls that are only at the wholesale level.
- c. **Notice of Temporary Service Interruptions.** Distributor shall give City thirty (30) days' prior written notice of Distributor's intent to perform a physical inventory or any other scheduled or anticipated activity that may negatively impact delivery times or customer service capabilities.
- d. **Disaster Response Plan.** Distributor shall adhere to the terms of its disaster response plan a summary of which is attached hereto as Attachment 7, as may be revised from time to time. ("Disaster Response Plan").

15. DISTRIBUTOR SALES REPRESENTATIVES AND CUSTOMER SERVICE:

- a. **Distributor Sales Representatives.** Distributor shall assign a sales representative (which may also be a sales representative for the US Pharmaceutical Division of McKesson Corporation) to serve as City's primary liaison to Distributor. Distributor's sales representatives shall provide on-site City staff training with respect to Distributor's technology and programs, optimal pharmacy purchasing and inventory management methodology, timely follow-up and effective problem-solving in response to City requests. Distributor's sales representative should be generally knowledgeable about Distributor's business and the pharmaceutical products industry and make on-site visits to City no less frequently than once per month unless otherwise requested by City. In addition to normally scheduled sales calls, Distributor's sales representatives shall schedule and conduct quarterly business reviews with City's pharmacy management and pharmacy purchasing staff, the occurrence of which shall depend on the City participating. Distributor shall establish a specific timetable for sales calls by sales representatives to satisfy the needs of the City.
- b. **Vendor Credentialing.** Distributor shall consult with City to identify City's policies relating to access to facilities and personnel. Distributor agrees to comply with City's policies and procedures regarding access to facilities and personnel, including without limitation policies relating to vendor registration and credentialing to the extent they are not inconsistent with Distributor's employee policies, including its code of conduct. In the event there is an inconsistency between City's policies and Distributor's policies that would affect Distributor's access to City's facilities, Distributor shall consult with City with respect to the conflict in an effort to come to a reasonable resolution. Before visiting any ZSFG facilities, it is required that a HCIR create a profile with "VendorMate." VendorMate is the company that manages the credentialing process of policy 16.27 for SFGH. For questions, or to register as a HCIR please contact the Director of Materials Management, or designee (during normal business hours) at (415) 206-5315 or sign on to <https://sfdph.vendormate.com> for details.
- c. **Distributor Customer Service.** Distributor shall provide telephone customer service to promptly respond to City's routine questions and issues during normal business hours. Distributor shall adequately train its telephone customer service agents in Distributor's operations, pharmacy purchasing, price verification research, and inventory supply research policies and procedures.

ATTACHMENT 3 - CITY PAYMENT TERMS

For all payment plans, the funds must be received by the Distributor at the designated remittance address on or before the dates due. Payments due on Saturday shall be due on the preceding Friday. Payments due on a Sunday shall be due on the following Monday. Payments due on a holiday shall be due on the preceding business day except when the holiday falls on a Monday. In that instance, payments shall be due on the following business day.

In the event City chooses to utilize an electronic payment program or card-based platform for the payment of Products ("E-Payable Program"), the Distributor shall participate in City's E-Payable Program, will offer its full and timely cooperation in assisting City, or its designate, to make such E-Payable Program operate successfully, and shall not impose any additional fees, costs, penalties, surcharges or other charges to City based upon E-Payable Program utilization.

- a. Late Payment Charges. Any service charges on past due amounts will accrue only on the unpaid balance of undisputed amounts at a daily rate not to exceed [REDACTED] per month ([REDACTED] Annual Percentage Rate). At the City's request, Distributor may waive late payment charges acting in its sole discretion.
- b. Disputed Invoices. Should the City dispute an invoice in good faith, City may report the issue to Distributor within thirty (30) business days of invoice date. Distributor shall promptly research the disputed invoice and City and Distributor shall use good faith to resolve the dispute. Disputed invoices are not subject to late fees or penalties during the resolution of the dispute. Upon resolution of such dispute, late fees or penalties applicable may be applied if City was not justified in disputing the applicable item(s) on invoice.
- c. Revocation of Credit Privileges. Notwithstanding any other provision of the Agreement, should City have an excessive late payment history or a substantial past due balance, Distributor shall notify GPO and City in writing of the problem prior to Distributor removing City's credit privileges. If Distributor rescinds City's credit privileges, the City shall be entitled to continue to purchase Products and Services from Distributor on a C.O.D. basis.
- d. Set-Off. Distributor shall set off any amount owing at any time from City against any amount payable at any time by Distributor to City (i.e., credits-on-account as set forth in the Agreement shall be deducted from amounts due before calculating any late payment penalties owed by the City).

The following payment terms will be made available to City so long as justified under Distributor's general credit policies. The City may elect to move to another payment term by providing written notice to the Distributor. Distributor reserves the right to adjust pricing to the term that most closely matches City's demonstrated payment history.

REGULAR PAYMENT TERMS

PAYMENT TERMS BEYOND THE TERMS STATED HEREIN SHALL BE NEGOTIATED BETWEEN THE CITY AND THE DISTRIBUTOR and Distributor will disclose the terms to GPO during the reporting process set forth in the Base Agreement.

1. WEEKLY STATEMENT PAYMENT

[REDACTED]

2. 15-DAY INVOICE PAYMENT

[REDACTED]

3. SEMI-MONTHLY STATEMENT PAYMENT

[REDACTED]

4. MONTHLY STATEMENT PAYMENT

[REDACTED]

5. PAYMENT UPON DELIVERY (C.O.D.). Subject to Attachment 3, Section (c) (Revocation of Credit Privileges) above.

ATTACHMENT 4 - PRODUCT RETURN POLICY

McKesson Plasma and Biologics LLC Return Goods Policy (Effective as of December 1, 2016)

Items Eligible for Return

- All product must be stored and returned in accordance with the protocol supplied by MPB and may vary depending on whether the product is refrigerated or ambient.
- Frozen products are not eligible for return and will not be accepted by MPB.
- Refrigerated product that is received in damaged condition must be reported within [REDACTED] business days of receipt.
- Ambient (room temperature) product that is received in damaged condition must be reported within [REDACTED] business days of receipt.
- Product that is purchased on a non-returnable basis, including refrigerated products, is not eligible for credit.
- Due to the unique manufacturing process of certain products and limitations on usage, MPB follows all manufacturer policies regarding acceptance of returns. MPB allows returns on products when the manufacturer policy deems the returned product fit.
- MPB sells products as non-returnable only when the manufacturer policy does not allow returns.

Return Authorization (RA)

- All customers must obtain a RA number from a Plasma Service Representative prior to returning a product. To request a RA number, contact MPB at 877.625.2566 or mpbreturns@mckesson.com.
- RA requests must be made within [REDACTED] of product delivery.

RA IS VALID FOR [REDACTED] FROM THE DATE OF APPROVAL. PRODUCT NOT RETURNED WITHIN [REDACTED] OF RECEIPT OF A RA WILL NOT BE CREDITED.

- RA provides the right to return product. It does not guarantee credit. Credit will be provided when product is received and all return requirements have been met.
- Any product that is returned without a signed RA will not be credited.
- Customers will receive a copy of the Product Care and Returns Shipping Procedures when requesting a RA from a Plasma Service Representative.

Credit and Restocking Fee

- The credit amount for returned products is based on the original purchase price.
- All returns pursuant to this Return Goods Policy are subject to a restocking fee. [REDACTED]

• [REDACTED]

Required Procedures for Returning ALL Items

- All returns MUST follow the Product Care and Returns Shipping Procedures.

- Detailed care instructions for refrigerated and ambient product is provided in the RA, this Return Goods Policy, and the Product Care and Returns Shipping Procedure.
- To receive credit, Product must be returned in its original manufacturer packaging, and be free of markings or other damage.

Important Notes

- MPB reserves the right to change without notice the Return Goods Policy.
- MPB is not responsible for Products returned without prior return authorization and reserves the right to reject said shipment and charge the customer for any incurred costs.
- All returns must comply with all applicable laws, rules, regulations, policies and procedures. Returned Products must also include the original invoice number in order to be saleable, in compliance with the Drug Supply Chain Security Act.
- For consignment products, please refer to the separate MPB Consignment Product Returns Goods Policy and Consignment Product Care and Return Shipping Procedures.

ATTACHMENT 5: DISTRIBUTOR'S CUSTOMER FACING MANAGEMENT REPORTING SYSTEM CAPABILITIES

DISTRIBUTOR'S MEMBER-FACING ORDERING SYSTEM CAPABILITIES

This Exhibit sets forth the minimum specifications required for the order entry systems provided by Distributor, pursuant to Section 10 of the Base Agreement ("Ordering System"):

- 1. Product catalog shall include:**
 - a.** All Products stocked at the DC assigned to service City shall be visible to City in the Ordering System. Such Ordering System shall clearly identify and distinguish Product labels to facilitate such identification (e.g., where there are two different labels for the same manufacturer's Product). Such Product identification and distinction shall be obvious to City personnel familiar with Distributor's Ordering System.
 - b.** All Contract Products shall be visible to City in the Ordering System, even if such Products are not stocked in the DC assigned to service City.
- 2.** The Ordering System shall include the current invoice price applicable to City, which is the price the City would be invoiced if City ordered the Product that day; provided, however, that for Non-Contract Products, the invoice price applicable to the City will be the price at the time of electronic order confirmation.
- 3.** If an ordered Product is not available, the Ordering System shall inform the City of the reason for the unavailability and provide an easy mechanism to locate generically equivalent Products. In no case shall the system's suggested alternative Products suggest Distributor's Contract Products or any other Distributor-preferred products before suggesting GPO Contract Products, when applicable.

**ATTACHMENT 6: NON-INJECTABLE GENERICS AUTO SHIP PROGRAM DESCRIPTION
(RESERVED)**

ATTACHMENT 7: DISASTER RESPONSE PLAN

Distributor will submit a comprehensive Disaster Response Plan (substantively addressing the topics identified below) to City as part of this Agreement.

Planning for an Emergency

- I.** Introduction
- II.** Corporate Objective
- III.** Definition of an Emergency
- IV.** Review Internal Plans and Policies
- V.** Establish an Evacuation Procedure
- VI.** Meet with Community Experts
- VII.** Identify Specific Codes and Regulations
- VIII.** Identify critical Products, Operations and Services
- IX.** Locate Company Specific Resources for Emergencies
- X.** Training
- XI.** Distribution of the Plan

Procedures during an Emergency

- XII.** Procedure for Reporting Emergencies
- XIII.** Procedure for Evaluating Severity of an Emergency
- XIV.** Emergency Response Team
- XV.** Communications During an Emergency
- XVI.** Procedure for Handling Emergencies
- XVII.** Contacting Outside Service
- XVIII.** Hazardous Materials
- XIX.** Evacuation Procedure
- XX.** First Aid

Action following an Emergency

- XXI.** Recovery and Restoration
- XXII.** Evaluation and Modification of the Plan

Appendixes

- Appendix I Persons Qualified to Act as Emergency Coordinators
- Appendix II Outside Agencies--Emergency Telephone Listing
- Appendix III Internal Emergency Phone Call List Sample
- Appendix IV Evacuation Routes
- Appendix V Emergency Assembly Reporting Procedure
- Appendix VI Job Descriptions
- Appendix VII Persons Responsible for Hazardous Waste Management
- Appendix VIII Emergency Checklists
- Appendix IX Guidance for Preparation of Spillage Confirmation Report
- Appendix X Business Continuity and Disaster Preparedness Websites

ATTACHMENT 1 to APPENDIX B-1: MPB MOD#1 BUDGET SUMMARY

Line #	Departmental Unit	FY 23 24	FY 24 25	FY 25 26	FY 26 27	FY 27 28	Value of Amendment #1	Total Contract Budgeted Amount
		2/1/2024 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025 - 6/30/2026	7/1/2026 - 6/30/2027	7/1/2027 - 6/30/2028	Calendar Year 2023	2/1/2020 - 6/30/2028
1	DPH Wide (Specialty / Gene therapy)	\$ 27,988,800.00	\$ 95,161,920.00	\$ 137,033,164.00	\$ 197,327,756.00	\$ 284,151,968.00	\$ 741,663,608.00	\$ 890,610,808.33
2		\$ 27,988,800.00	\$ 95,161,920.00	\$ 137,033,164.00	\$ 197,327,756.00	\$ 284,151,968.00	\$ 741,663,608.00	\$ 890,610,808.33
3					Sub Total (All Units)			\$ 890,610,808.33
4					Specialty Drugs / Gene therapy Innovation Initiatives			\$ 53,691,688.00
5					Subtotal of All Pharmaceuticals			\$ 944,302,496.00
6					Contingency			\$ 113,256,495.00
7					Sub Total			\$ 1,057,558,991.00
8					Holdover Amount (Calculated from the last 12 months of the contract)			\$ 409,178,833.00
9							Guaranteed Maximum Cost	\$ 1,466,737,824.00

Starting FY 23/24 44% annual increase to account for specialty and gene therapy drug inflation.

Line 4: Is an amount to account for future innovations in the field of specialty and gene therapy. This is calculated By taking 15% of the amount of the Pharma drugs + 15% of the amount of the specialty drugs. The Department anticipates significant future developments in the area of specialty drugs and gene therapy.

Line 8: 20 % of the last 12 months of the contract will give DPH 1 year of uninterrupted service to find an alternate vendor if needed. Holdover terms are specified under section 2.2 of the contract. The holdover period shall be FY 28 29 (7/1/2028 - 6/30/2029)

FY 23/24 full year amounts are as follows:

Total FY 23/24 Amount DPH Wide
(Specialty / Gene therapy) \$ 66,084,667.00

Document Date: 10/2/2023

TEMPORARY ORIGINAL

FILE NO. 200013

RESOLUTION NO. 124-20

1 [Agreement - Retroactive - McKesson Plasma and Biologics LLC - Pharmaceuticals, Biologics
2 and Specialty Drugs - Not to Exceed \$295,934,790]

3 Resolution retroactively approving an agreement between McKesson Plasma and
4 Biologics LLC and the Department of Public Health for the purchase of pharmaceutical
5 products, biologics and specialty drugs for a total amount not to exceed \$295,934,790
6 for a term of five years, from February 1, 2020, through January 31, 2024.

7
8 WHEREAS, The Department of Public Health (DPH) has the ongoing need to procure
9 a broad range of pharmaceutical products, biologics and specialty drugs for use in the daily
10 delivery of care to patients of various Department programs; and

11 WHEREAS, This Agreement was procured as required by San Francisco
12 Administrative Code, Chapter 21.A.2, Membership in Group Purchasing Organizations; and

13 WHEREAS, San Francisco Charter, Section 9.118(b) requires that the Board of
14 Supervisors approve by resolution all City contracts having an amount in excess of ten million
15 dollars; now, therefore, be it

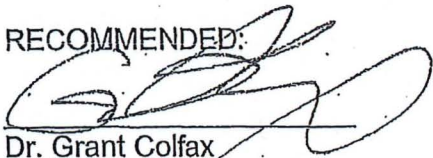
16 RESOLVED, That the Board of Supervisors hereby authorizes the Director of Public
17 Health and the Director of the Office of Contract Administration/Purchaser, on behalf of the
18 City and County of San Francisco, to execute an agreement with McKesson Plasma and
19 Biologics LLC for the purchase of pharmaceutical products, biologics and specialty drugs for a
20 total amount not to exceed \$295,934,790, for term of five years, February 1, 2020, through
21 January 31, 2024; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors authorizes the
23 Department of Public Health to enter into any amendments or modifications to the
24 contract, prior to its final execution by all parties, that the Department determines, in
25 consultation with the City Attorney, are in the best interest of the City, do not otherwise

TEMPORARY ORIGINAL

1 materially increase the obligations or liabilities of the City, are necessary or advisable to
2 effectuate the purposes of the contract, and are in compliance with all applicable laws;
3 and, be it

4 FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed
5 by all parties, the Director of Health and/or the Director of the Office of Contract
6 Administration/Purchaser shall provide the final contracts to the Clerk of the Board for
7 inclusion into the official File No. 200013.

8
9 RECOMMENDED:
10 
11 Dr. Grant Colfax
12 Director of Health

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 200013

Date Passed: March 24, 2020

Resolution retroactively approving an agreement between McKesson Plasma and Biologics LLC and the Department of Public Health for the purchase of pharmaceutical products, biologics and specialty drugs for a total amount not to exceed \$295,934,790 for a term of five years, from February 1, 2020, through January 31, 2024.

February 12, 2020 Budget and Finance Committee - RECOMMENDED

March 24, 2020 Board of Supervisors - ADOPTED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200013

I hereby certify that the foregoing Resolution was ADOPTED on 3/24/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

4/3/20

Date Approved