

**AGREEMENT**

THIS AGREEMENT is made and entered into this 7th day of January, 2020, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and The Regents of the University of California, on behalf of its University of California, San Diego School of Medicine, Moores Cancer Center, a California constitutional corporation and educational institution, whose address is 9500 Gilman Drive, 0905, La Jolla, California, 92093-0905, hereinafter referred as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, through its Department of Public Health, is in need of local statistically significant data and analysis on young adults' attitudes and perceptions of tobacco and related products; and

WHEREAS, CONTRACTOR, has the facilities, equipment and personnel skilled in the provision of such services and is qualified and willing to provide such services, pursuant to the conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF THE CONTRACTOR

CONTRACTOR shall perform all services identified in Exhibit A, attached hereto and incorporated herein by this reference.

2. TERM

The term of this Agreement shall become effective upon execution and shall terminate on June 30, 2021.

3. TERMINATION

A. Non-Allocation of Funds - The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written

1 notice.

2 B. Breach of Contract - The COUNTY may immediately suspend or terminate this  
3 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 4 1) An illegal or improper use of funds;
- 5 2) A failure to comply with any term of this Agreement;
- 6 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 7 4) Improperly performed service.

8 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach  
9 of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such  
10 payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default.  
11 The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any  
12 funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY were  
13 not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund  
14 any such funds upon demand.

15 C. Without Cause - Under circumstances other than those set forth above, this  
16 Agreement may be terminated by COUNTY or CONTRACTOR upon the giving of thirty (30) days advance  
17 written notice of an intention to terminate to CONTRACTOR.

18 4. COMPENSATION/INVOICING: COUNTY agrees to pay CONTRACTOR and  
19 CONTRACTOR agrees to receive compensation at the rates identified in Exhibit A. In no event shall  
20 services performed under this Agreement be in excess of Forty-Seven Thousand, Six Hundred and No/100  
21 Dollars (\$47,600.00) during the term of this Agreement. Indirect costs shall be limited to ten percent (10%)  
22 of total direct project costs. It is understood that all expenses incidental to CONTRACTOR'S performance  
23 of Services under this Agreement shall be borne by CONTRACTOR.

24 5. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations  
25 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that  
26 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all  
27 times be acting and performing as an independent contractor, and shall act in an independent capacity and  
28 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.

1 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which  
2 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer  
3 this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the  
4 terms and conditions thereof.

5 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and  
6 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

7 Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right  
8 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable  
9 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In  
10 addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating  
11 to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all  
12 other regulations governing such matters. It is acknowledged that during the term of this Agreement,  
13 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

14 6. MODIFICATION: Any matters of this Agreement may be modified from time to time by the  
15 written consent of all the parties without, in any way, affecting the remainder.

16 7. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement  
17 nor their rights or duties under this Agreement without the prior written consent of the other party.

18 8. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold harmless, and at  
19 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and  
20 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or  
21 resulting to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR, its  
22 officers, agents, or employees under this Agreement, and from any and all costs and expenses (including  
23 attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm,  
24 or corporation who may be injured or damaged by the performance, or failure to perform, of  
25 CONTRACTOR, its officers, agents, or employees under this Agreement.

26 COUNTY agrees to indemnify, save, hold harmless, and at CONTRACTOR'S request, defend the  
27 CONTRACTOR, its officers, agents, and employees from any and all costs and expenses, damages,  
28 liabilities, claims, and losses occurring or resulting to CONTRACTOR in connection with the performance,

1 or failure to perform, by COUNTY, its officers, agents, or employees under this Agreement, and from any  
2 and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person,  
3 firm, or corporation who may be injured or damaged by the performance, or failure to perform, of  
4 COUNTY, its officers, agents, or employees under this Agreement.

5 9. INSURANCE: Each of the parties carries, with financially sound and reputable insurers,  
6 insurance coverage (including errors and omissions, professional liability and comprehensive liability  
7 coverage) with respect to the conduct of its business or services against loss from such risks and in  
8 such amounts as is customary for well-insured companies of institutions engaged in similar businesses  
9 or services.

10 CONTRACTOR is an entity of the State of California and self-funds high retention levels for  
11 its exposures under the California Tort Claims Act as well as its statutory obligations for Workers  
12 Compensation. CONTRACTOR'S insurance programs are described in its Business and Finance  
13 Bulletin BUS-81 which can be found at <http://www.ucop.edu/ucophome/policies/bfb/bus81.pdf>. Without  
14 limiting the COUNTY'S right to obtain indemnification from CONTRACTOR or any third parties,  
15 CONTRACTOR, at its sole expense, shall maintain in full force and effect a program of self-insurance  
16 throughout the term of the Agreement:

17 A. Commercial General Liability

18 Commercial General Liability Insurance with limits of not less than Two Million Dollars  
19 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This  
20 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including  
21 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal  
22 liability or any other liability insurance deemed necessary because of the nature of this contract.

23 B. Automobile Liability

24 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars  
25 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto  
26 used in connection with this Agreement.

27 C. Professional Liability

28 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in

1 providing services, Professional Liability Insurance with limits of not less than One Million Dollars  
2 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

3 D. Worker's Compensation

4 A policy of Worker's Compensation insurance as may be required by the California Labor Code.

5 Other Insurance Provisions

6 The insurance policies are to contain, or be endorsed to contain, the following provisions:

7 Additional Insured Status

8 The COUNTY, its officers, officials, employees, and volunteers are to be covered as  
9 additional insureds on the CGL policy with respect to liability arising out of work or operations performed by  
10 or on behalf of the CONTRACTOR including materials, parts or equipment furnished in connection with  
11 such work or operations. General liability coverage can be provided in the form of an endorsement to the  
12 CONTRACTOR'S insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26,  
13 CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

14 Primary Coverage

15 For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall  
16 be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its  
17 officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY,  
18 its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall  
19 not contribute with it.

20 Notice of Cancellation

21 Each insurance policy required above shall provide that coverage shall not be canceled,  
22 except with notice to the COUNTY.

23 Waiver of Subrogation

24 CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any  
25 insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss  
26 under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect  
27 this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has  
28 received a waiver of subrogation endorsement from the insurer.

1                   Claims Made Policies

2                   If any of the required policies provide claims-made coverage:

- 3                   1. The Retroactive Date must be shown, and must be before the date of the  
4                   contract or the beginning of contract work.
- 5                   2. Insurance must be maintained and evidence of insurance must be provided for  
6                   at least five (5) years after completion of the contract of work.
- 7                   3. If coverage is canceled or non-renewed, and not replaced with another claims-  
8                   made policy form with a Retroactive Date prior to the contract effective date, the  
9                   CONTRACTOR must purchase "extended reporting" coverage for a minimum of  
10                  five (54) years after completion of work.

11                  Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,  
12 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the  
13 foregoing policies, as required herein, to the County of Fresno, (Name and Address of the official who will  
14 administer this agreement), stating that such insurance coverage have been obtained and dare in full force;  
15 that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on  
16 the policies; that such Commercial General Liability insurance names the County of Fresno, its officers,  
17 agents and employees, individually and collectively, as additional insured, but only insofar as the operations  
18 under this Agreement are concerned; that such coverage for additional insured shall apply as primary  
19 insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and  
20 employees, shall be excess only and not contributing with insurance provided under CONTRACTOR's  
21 policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30)  
22 days advance, written notice given to COUNTY.

23                  In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein  
24 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this  
25 Agreement upon the occurrence of such event.

26                  All policies shall be issued by admitted insurers licensed to do business in the State of California,  
27 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A  
28 FSC VII or better.

1           10.    AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during business  
2 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination  
3 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR  
4 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data  
5 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

6           If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to  
7 the examination and audit of the Auditor General for a period of three (3) years after final payment under  
8 this Agreement (Government Code Section 8546.7).

9           11.    CONFIDENTIALITY: All services performed by CONTRACTOR under this Agreement shall  
10 be in strict conformance with all applicable Federal, State of California and/or local laws and regulations  
11 relating to confidentiality.

12           12.    NOTICES: The persons and their addresses having authority to give and receive notices  
13 under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	UC San Diego School of Medicine
Director, Department of Public Health	Associate Vice Chancellor
1221 Fulton Street	9500 Gilman Drive, MC 0602
Fresno, CA 93721	La Jolla, CA 92093-0602

17           All notices between the COUNTY and CONTRACTOR provided for or permitted under this  
18 Agreement must be in writing and delivered either by personal service, by first-class United States mail, by  
19 an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by  
20 personal service is effective upon service to the recipient. A notice delivered by first-class United States  
21 mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid,  
22 addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one  
23 COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid,  
24 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by  
25 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is  
26 completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the  
27 next beginning of a COUNTY business day), provided that the sender maintains a machine record of the  
28 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section

1 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,  
2 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,  
3 beginning with section 810).

4 13. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall  
5 only be in Fresno County, California.

6 The rights and obligations of the parties and all interpretation and performance of this Agreement  
7 shall be governed in all respects by the laws of the State of California.

8 14. SEVERABILITY: The positions of this Agreement are severable. The invalidity or  
9 unenforceability of any one provision in the Agreement shall not affect the other provisions.

10 15. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the  
11 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous  
12 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and  
13 understanding of any nature whatsoever unless expressly included in this Agreement.

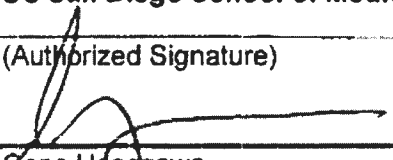
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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first  
2 hereinabove written.

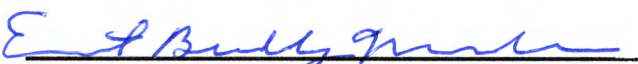
3 **CONTRACTOR:**  
4 **UC San Diego School of Medicine**

5 (Authorized Signature)

6   
7 **Gene Hasegawa**  
8 **Chief Operating Officer**

9 Mailing Address:  
10 9500 Gilman Drive, MC 0602  
11 La Jolla, CA 92093-0602

**COUNTY OF FRESNO:**



**Ernest Buddy Mendes, Chairman of the  
Board of Supervisors of the County of  
Fresno**

**ATTEST:**

**Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California**

14  
15 **FOR ACCOUNTING USE ONLY:**

16 Fund: 0001

17 Subclass: 10000

18 ORG: 56201552

19 Account: 7295

By:   
Deputy

## UCSD—CSTS County-specific Reporting for Fresno

University of California, San Diego  
9500 Gilman Drive, 0905  
La Jolla, CA 92093-0905

Quote#: 2012  
Date: 7/25/2019  
Prepared By: Jessica Sun

### Quoted To:

Leila Gholamrezaei  
Health Educator  
County of Fresno Department of Public Health  
Office of Policy and Planning  
1221 Fulton Mall, Fresno, CA 93721  
Phone (559) 600-6449

Start Date: Upon contract execution

Anticipated End Date: 6/30/2021

ITEM	QTY.	DESCRIPTION	UNIT PRICE	AMOUNT (USD)
1-1	1	County-specific report of data from the 2019-20 California Student Tobacco Survey <ul style="list-style-type: none"> <li>• Program up to 6 county-specific questions to attach to CSTS</li> <li>• Conduct CSTS with students in 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> grade from 11 schools randomly selected for CSTS.</li> <li>• Analyze data, including county-specific information</li> <li>• When CSTS data are approved by CDPH, deliver a report that provides county-specific prevalence rates for cigarettes, emerging products, and marijuana and data on exposure, susceptibility, attitudes, and other questions included in CSTS.</li> <li>• Include in the report analysis of county-specific questions.</li> </ul>	\$47,600	\$47,600
<b>TOTAL</b>				<b>\$47,600</b>

### Comments or Special Instructions:

The Client is expected to assist the recruitment efforts by providing a letter to schools about the importance of the project and collaborating with UCSD to set up a recruitment strategy.

The Client will provide county-specific questions (up to six) in a timely way. Question must be ones deemed acceptable to the human subjects' review boards, the schools, and to parents/guardians.

Terms are Net-45 with half due at the start of the project and the remaining due upon receipt of the county-specific report. Payment can be made with a Client PO or via check (payable to UC Regents) or wire transfer.

To accept this quotation, please sign the second page and return.

**Terms and Conditions:**

Data Ownership: Data will be collected as part of the larger California Student Tobacco Survey (CSTS), which is funded by the California Department of Public Health (CDPH). Therefore, all data are owned by CDPH; they can be accessed with the approval of CDPH, subject to rules protecting the confidentiality of survey participants. UCSD will help prepare the data for the county to use once CDPH has given the approval. UCSD retains the right to analyze the data from all counties as part of the CSTS analytic work to understand the tobacco use pattern in California, and to publish the results in scientific journals.

UCSD shall not be responsible for low participation rates of county schools that limit the interpretability of the results for the county.

Methods, procedures, innovations, and equipment developed and employed by UCSD for the project shall remain the sole property of UCSD.

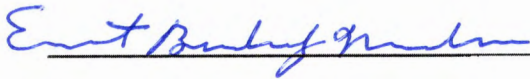
Each party shall defend, indemnify and hold the other party, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including attorneys' fees), and claims for injury or damages arising out of the performance of this Quote, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury (including death) or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, employees, or agents.

UCSD will use the standard practice of data suppression for aggregate reporting in which subgroup analyses will be considered only if the information can be presented in ways that protect the identities, privacy, and personal information of individual students, teachers, administrators, or schools.

Client shall promptly inspect completed work and notify UCSD of any errors or discrepancies within thirty (30) days of receipt. Failure to provide timely notification to UCSD, or providing payment for services which Client had opportunity to inspect, shall be considered acceptance of such services.

**UCSD DOES NOT GUARANTEE RESULTS, OR SPECIFIC PERFORMANCE UNDER ANY CIRCUMSTANCE. IN NO EVENT SHALL UCSD'S TOTAL LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY THE CLIENT FOR THE SERVICES.**

To accept this quotation, sign here and return:



Signature

1-8-2020

Date

ATTEST:

BERNICE E. SEIDEL  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By  Deputy