

MADERA COUNTY CONTRACT No. 11773-20**AGREEMENT FOR TESTING SERVICES**

THIS AGREEMENT is made and entered into this 10TH day of November _____, 2020, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and County of Madera, whose address is 1604 SUNRISE AVE, MADERA, CA 93638, a Political Subdivision of the State of California, hereinafter referred to as "CONTRACTOR".

RECITALS

A. In October 2018, the Fresno Public Health Laboratory suffered damage as a result of a broken water line which flooded the basement.

B. As a result of the basement flood, COUNTY had an emergency need to outsource Category A and B testing so that they may continue conducting work vital to the health and welfare of the public.

C. CONTRACTOR has agreed to provide emergency aid to COUNTY in the form of Outsourced testing of Category A and B Specimens to provide for the safety and well-being of Fresno County residents.

D. CONTRACTOR has the facilities, equipment, and personnel skilled in the provision of such services in emergency aid to COUNTY.

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

1. OBLIGATIONS OF THE CONTRACTOR

A. CONTRACTOR shall perform all services and fulfill all responsibilities for COUNTY's Department of Public Health as identified in Exhibit A, attached hereto and by this reference incorporated herein.

2. OBLIGATIONS OF THE COUNTY

A. COUNTY shall provide compensation to CONTRACTOR as provided in Exhibit B.

B. COUNTY shall coordinate delivery of samples meeting CONTRACTOR'S

1 general specifications.

2 3. TERM

3 The term of this agreement is effective from 7/1/2020 through and including 6/30/2021.

4 4. TERMINATION

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

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

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

17 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY
18 of any breach of this Agreement or any default which may then exist on the part of the
19 CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the
20 COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of
21 the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the
22 CONTRACTOR under this Agreement, which in the judgment of the COUNTY were not
23 expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly
24 refund any such funds upon demand.

25 C. Without Cause. Under circumstances other than those set forth above, this
26 Agreement may be terminated by either party upon the giving of thirty (30) days advance written
27 notice of an intention to terminate to the other party.

28 5. COMPENSATION/INVOICING. COUNTY agrees to pay CONTRACTOR and

1 CONTRACTOR agrees to receive compensation as follows: (See Exhibit B). CONTRACTOR
2 shall submit quarterly invoices in triplicate to the County of Fresno Department of Public Health.

3 The COUNTY shall limit the testing services requested of CONTRACTOR to Twenty
4 Thousand Dollars (\$20,000.00) during the term of this Agreement. It is understood that all
5 expenses incidental to CONTRACTOR'S performance of services under this Agreement shall
6 be borne by CONTRACTOR.

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

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

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

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

28 7. MODIFICATION. Any matters of this Agreement may be modified from time to time

1 by the written consent of all the parties without, in any way, affecting the remainder.

2 8. NON-ASSIGNMENT. Neither party shall assign, transfer or sub-contract this
3 Agreement nor their rights or duties under this Agreement without the prior written consent of
4 the other party.

5 9. HOLD HARMLESS: CONTRACTOR. agrees to indemnify, save, hold harmless,
6 and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any
7 and all costs and expenses (including attorney's fees and costs), damages, liabilities, claims,
8 and losses occurring or resulting to COUNTY in connection with the performance, or failure to
9 perform, by CONTRACTOR, its officers, agents, or employees under this Agreement, and from
10 any and all costs and expenses (including attorney's fees and costs), damages, liabilities, claims,
11 and losses occurring or resulting to any person, firm, or corporation who may be injured or
12 damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or
13 employees under this Agreement.

14 10. INSURANCE.

15 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any
16 third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the
17 following insurance policies or a program of self-insurance, including but not limited to, an
18 insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the
19 Agreement:

20 A. Commercial General Liability.

21 Commercial General Liability Insurance with limits of not less than Two Million Dollars
22 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars
23 (\$4,000,000.00). This policy shall be issued on a per occurrence basis. COUNTY may require
24 specific coverages including completed operations, products liability, contractual liability,
25 Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed
26 necessary because of the nature of this contract.

27 B. Automobile Liability.

28 Comprehensive Automobile Liability Insurance with limits of not less than One Million

1 Dollars (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage
2 should include any auto used in connection with this Agreement.

3 C. Professional Liability.

4 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W.,
5 M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One
6 Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual
7 aggregate.

8 D. Worker's Compensation.

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

11 Additional Requirements Relating to Insurance.

12 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance
13 naming the County of Fresno, its officers, agents, and employees, individually and collectively,
14 as additional insured, but only insofar as the operations under this Agreement are concerned.
15 Such coverage for additional insured shall apply as primary insurance and any other insurance,
16 or self-insurance, maintained by COUNTY, its officers, agents and employees shall be excess
17 only and not contributing with insurance provided under CONTRACTOR's policies herein. This
18 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance
19 written notice given to COUNTY.

20 CONTRACTOR hereby waives its right to recover from COUNTY, its officers, agents, and
21 employees any amounts paid by the policy of worker's compensation insurance required by this
22 Agreement. CONTRACTOR is solely responsible to obtain any endorsement to such policy that
23 may be necessary to accomplish such waiver of subrogation, but CONTRACTOR's waiver of
24 subrogation under this paragraph is effective whether or not CONTRACTOR obtains such an
25 endorsement.

26 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
27 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all
28 of the foregoing policies, as required herein, to the County of Fresno, County of Fresno,

1 Department of Public Health. P.O. Box 11867, Fresno CA 93775, Attention: Contracts Section
2 – 6th Floor, stating that such insurance coverage have been obtained and are in full force; that
3 the County of Fresno, its officers, agents and employees will not be responsible for any
4 premiums on the policies; that such Commercial General Liability insurance names the County
5 of Fresno, its officers, agents and employees, individually and collectively, as additional insured,
6 but only insofar as the operations under this Agreement are concerned; that such coverage for
7 additional insured shall apply as primary insurance and any other insurance, or self-insurance,
8 maintained by COUNTY, its officers, agents and employees, shall be excess only and not
9 contributing with insurance provided under CONTRACTOR's policies herein; and that this
10 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance,
11 written notice given to COUNTY.

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

15 11. CONFIDENTIALITY: COUNTY and CONTRACTOR each consider and represent
16 themselves as covered entities as defined by the U.S.I Health Insurance Portability and
17 Accountability Act of 1996, Public Law 104-191(HIPAA) and agree to use and disclose protected
18 health information as required by law.

19 COUNTY and CONTRACTOR acknowledge that the exchange of protected health
20 information between them is only for treatment, payment and health care operations.

21 COUNTY and CONTRACTOR intend to protect the privacy and provide for the security
22 of Protected Health Information (PHI) pursuant to the Agreement in compliance with HIPAA, the
23 Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
24 (HITECH), and regulations promulgated thereunder by the U.S. Department of Health and
25 Human Services (HIPAA Regulations) and other applicable laws.

26 As part of the HIPAA Regulations, the Privacy Rule and the Security Rule require
27 CONTRACTOR to enter into a contract containing specific requirements prior to the disclosure
28 of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e)

1 of the Code of Federal Regulations (CFR).

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

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

11 13. SINGLE AUDIT CLAUSE.

12 A. If CONTRACTOR expends Seven Hundred Fifty Thousand Dollars
13 (\$750,000) or more Federal and Federal flow-through monies, CONTRACTOR agrees to
14 conduct an annual audit in accordance with the requirements of the Single Audit Standards as
15 set forth in Office of Management and Budget (OMB) Title 2 of the Code of Federal Regulations,
16 Chapter II, Part 200. CONTRACTOR shall submit said audit and management letter to
17 COUNTY. The audit must include a statement of findings or a statement that there were no
18 findings. If there were negative findings, CONTRACTOR must include a corrective action plan
19 signed by an authorized individual. CONTRACTOR agrees to take action to correct any material
20 non-compliance or weakness found as a result of such audit. Such audit shall be delivered to
21 COUNTY'S DPH Administration for review within nine (9) months of the end of any fiscal year in
22 which funds were expended and/or received for the program. Failure to perform the requisite
23 audit functions as required by this Agreement may result in COUNTY performing the necessary
24 audit tasks, or at the COUNTY'S option, contracting with a public accountant to perform said
25 audit, or, may result in the inability of COUNTY to enter into future agreements with the
26 CONTRACTOR.

27 B. A single audit report is not applicable if all CONTRACTOR'S Federal
28 contracts do not exceed the Seven Hundred Fifty Thousand Dollars (\$750,000) requirement or

1 CONTRACTOR'S federal funding is through Drug Medi-Cal.

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

4 COUNTY

CONTRACTOR

5 COUNTY OF FRESNO
6 DEPARTMENT OF PUBLIC HEALTH
7 1221 FULTON STREET
FRESNO, CA 93721

COUNTY OF MADERA
DEPARTMENT OF PUBLIC HEALTH
1604 SUNRISE AVENUE
MADERA, CA 93638

8 All notices between the COUNTY and CONTRACTOR provided for or permitted under
9 this Agreement must be in writing and delivered either by personal service, by first-class United
10 States mail, by an overnight commercial courier service, or by telephonic facsimile transmission.
11 A notice delivered by personal service is effective upon service to the recipient. A notice
12 delivered by first-class United States mail is effective three COUNTY business days after deposit
13 in the United States mail, postage prepaid, addressed to the recipient. A notice delivered by an
14 overnight commercial courier service is effective one COUNTY business day after deposit with
15 the overnight commercial courier service, delivery fees prepaid, with delivery instructions given
16 for next day delivery, addressed to the recipient. A notice delivered by telephonic facsimile is
17 effective when transmission to the recipient is completed (but, if such transmission is completed
18 outside of COUNTY business hours, then such delivery shall be deemed to be effective at the
19 next beginning of a COUNTY business day), provided that the sender maintains a machine
20 record of the completed transmission. For all claims arising out of or related to this Agreement,
21 nothing in this section establishes, waives, or modifies any claims presentation requirements or
22 procedures provided by law, including but not limited to the Government Claims Act (Division
23 3.6 of Title 1 of the Government Code, beginning with section 810).

24 15. GOVERNING LAW. Venue for any action arising out of or related to this
25 Agreement shall only be in Fresno County, California. The rights and obligations of the parties
26 and all interpretation and performance of this Agreement shall be governed in all respects by the
27 laws of the State of California.

28 16. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between

1 the CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all
2 previous Agreement negotiations, proposals, commitments, writings, advertisements,
3 publications, and understanding of any nature whatsoever unless expressly included in this
4 Agreement.

5 * * * * *


6
7 **IN WITNESS WHEREOF** the foregoing Agreement is executed on the date and year first above-
8 written.

9 COUNTY OF MADERA

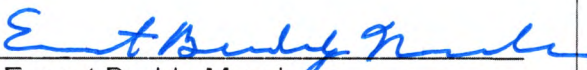
10 
11 Chairman, Board of Supervisors



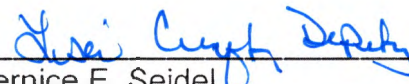
12
13
14
15 ATTEST:

16 
17 Clerk, Board of Supervisors

COUNTY OF FRESNO

By: 
Ernest Buddy Mendes
Chairman of the Board of Supervisors
of the County of Fresno

ATTEST:

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

18
19
20 Approved as to Legal Form:
21 COUNTY COUNSEL

22 Dale E.
By: Bacigalupi

Digitally signed by: Dale E. Bacigalupi
DN: CN = Dale E. Bacigalupi email =
dbacigalupi@lozanosmith.com C = US
Date: 2020.10.20 15:49:30 -07'00'

23 ACCOUNT NUMBER(S)

24 Fund: 0001

25 Subclass: 10000

26 Org: 56201620

27 Account: 7295

SCOPE OF WORK

DEPARTMENT OF PUBLIC HEALTH SERVICE REQUIREMENTS

Services include, but are not limited to, laboratory testing and timely response for routine laboratory orders. These services will be required for the operation of the County of Fresno Public Health Laboratory.

Contractor will provide all laboratory services and necessary supplies. Contractor must be CLIA (Clinical Laboratory Improvement Amendments) certified.

Laboratory services will be provided in response to laboratory specimens transported by courier service provided by the County of Fresno Public Health Laboratory.

1. All Services will be provided in accordance with Fresno County, State and Federal client/consumer confidentiality requirements.
2. Billings for services will be submitted on a monthly invoice statement.
Invoices are to be sent to:
Department of Public Health (DPH)
P.O. Box 11867
Fresno, CA 93775
3. Billing Discrepancies: The County prefers the Contractor provide one person to address billing questions and discrepancies for DPH. The Contractor is to respond to inquiries in a timely manner – within 7 business days.
4. The Contractor will be required to assume full responsibility for all services and activities offered in the Agreement. The County of Fresno will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. The contractor may not subcontract or transfer the contract, or

any right or obligation arising out of the contract, without first having obtained the express written consent of the County.

5. The County requires at least 60 days prior notice, or reasonable notice, of any and all system changes that impact fax/e-mail response, invoicing and requisition forms. The notice should include what change is taking place, when it is happening, what is causing the change, what will be impacted and how it will be implemented. If the changes will impact existing account numbers, the Contractor will provide detailed steps that will be taken to avoid duplicate billing.



Public Health Laboratory Testing

Exhibit B

Page 1 of 1

The following is a comprehensive list of lab procedures currently performed by the Madera County Public Health Laboratory.

Human Pathogen

- QFT TB-GOLD PLUS - \$40 per test
 - Description: testing for the diagnosis of latent Mycobacterium tuberculosis (TB) infection
- AFBs/TB digestion & culture - \$24 per test
 - Description: screening for Mycobacterium tuberculosis (TB), and screening stain for the preliminary findings of the presence of Acid-fast bacilli organisms in sputum samples
- TB identification by Genprobe - \$50 per test
 - Description: Molecular identification for Mycobacterium tuberculosis (TB)
- XPERT MTB-RIF ASSAY - \$75 per test
 - Description: Nucleic Acid Amplification / PCR Test

Animal and Environmental Threats

- Rabies - \$50 per test
 - Description: Rabies examination of animal brain tissue

Lead. Protect. Empower.