

**MEMORANDUM OF AGREEMENT**

Between

**New Mexico Department of Health**

And

**Torrance County**

This Agreement entered into between New Mexico Department of Health (DOH) and **Torrance County**, the entity providing services.

## IT IS AGREED BETWEEN THE PARTIES

**1. PURPOSE**

The purpose of this agreement is to provide continued technical assistance and financial resources for the Cities Readiness Initiative (CRI) partners within the Albuquerque Metropolitan Statistical Area (MSA). The Albuquerque MSA includes the Counties of Bernalillo, Torrance, and Sandoval, as well as the cities of Albuquerque and Rio Rancho, and the Village of Los Lunas. The CRI is a Centers for Disease Control and Prevention (CDC) funded program, to prepare major U.S. cities and metropolitan areas for an effective response to a large-scale public health emergency. This emergency preparedness includes readiness for the mass distribution of CDC Strategic National Stockpile (SNS) Medical Countermeasures (MCM) within the MSA.

**2. SCOPE OF WORK**

The Entity shall perform the following work:

TASK	DELIVERABLE	DUE DATE
A) Coordinate with CRI partners to act as a single planning jurisdiction in preparation for public health emergencies that require the distribution or dispensing of SNS or MCM materials/supplies	I. Copy of Signed Signature Page for Single Planning Jurisdiction	June 30, 2023
B) Attend jointly planned DOH-BHEM/CRI training and/or exercise day/s not to exceed two 8 hr. days. This will be for the purpose of reviewing CRI planning elements, conducting required exercises, and plan revisions.	I. Copy of signed training attendance record electronic or in-person	June 30, 2023
C) Conduct quarterly call-down, assembly, and/or activation drills. Documentation should include the staff responsible for MCM distribution and dispensing	I. Copy of electronic or manually signed attendance sheets.	June 30, 2023

operations.		
D) Perform quarterly redundant communication test, other than those used in call down drills.	I. Copy of communication test results	June 30, 2023
E) A representative/s will attend the annual Partners in Preparedness Conference.	I. Copy of registration and electronic attendance records	June 30, 2023
F) Each member will attend at least nine (9) monthly jurisdiction meetings for the fiscal year and collaborate with SNS coordinator to host one in-person, hybrid, or virtual meeting. This will include meeting space and prepared agenda items of their choice. (Subject to any pandemic restricted activity)	I. Copy of jurisdiction attendance record of 9 meetings. II. Copy of single member prepared agenda for one monthly meeting III. Copy of planning document with scheduled monthly meetings.	June 30, 2023
G) Review and complete follow-up on DOH Pandemic After Action Review items for CRI related activities.	I. Copy of DOH Pandemic AAR provided by contractor II. Copy of action items related to CRI activities III. Documentation of resolved action items related to future planning.	June 30, 2023

**\*\* The deliverables may be modified during the contract period by mutual agreement to meet real World emerging threats or changing federal grant requirements.**

**3. ADMINISTERING AGENCY**

The administering agency is the DOH.

**4. COMPENSATION**

A. **The total amount payable to the Entity under this Agreement, including gross receipts tax and expenses, shall not exceed thirteen thousand dollars (\$13,000.00). This amount is a maximum and not a guarantee that the work assigned to Entity under this Agreement to be performed shall equal the amount stated herein.**

B. The DOH shall pay to the Entity in full payment for services satisfactorily performed BASED UPON DELIVERABLES, such compensation not to exceed thirteen thousand dollars (\$13,000.00) (as set forth in Paragraph A) including gross receipts tax if applicable. Payment is subject to availability of funds as appropriated by the Legislature to the DOH and to any negotiations between the parties from year to year pursuant to Article 2, Scope of Work. All

5. **PROPERTY**

The parties understand and agree that property acquired under this Agreement shall be the property of the DOH.

6. **CLIENT RECORDS AND CONFIDENTIALITY**

- A. The Entity shall protect the confidentiality, privacy and security of all confidential information and records and shall not release any confidential information to any other third party without the express written authorization of the client when the record is a client record, or the DOH.
- B. The Entity shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the DOH.
- C. The Entity shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other State and Federal rules, regulations and laws protecting the confidentiality of information. If the Entity may reasonably be expected to have access to Departments' Protected Health Information (PHI) as defined by HIPAA, Entity shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this Agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the DEPARTMENT shall constitute grounds for termination of this Agreement in accordance with Article 9 of this Agreement.

7. **FUNDS ACCOUNTABILITY**

The Entity shall maintain detailed time and expenditure records, which indicate the date, time, nature, and cost of services rendered during the Agreement term and retain them for a period of three (3) years from the date of final payment under the Agreement. The records shall be subject to inspection by the DOH, the Department of Finance and Administration and the Office of the State Auditor. The DOH shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the DOH to recover excessive or illegal payments.

8. **LIABILITY**

As between the parties, each party will be responsible for claims or damages arising from personal injury or damage to persons or tangible property to the extent they result from negligence of its employees, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended.

9. **TERMINATION OF AGREEMENT**

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the DOH's sole liability upon such termination shall be to pay for acceptable work performed prior to the Entity's receipt of the notice of termination, if the DOH is the terminating party, or the Entity's sending of the notice of termination, if the Entity is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Entity shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon

written notice to the Entity if the Entity becomes unable to perform the services contracted for, as determined by the DOH or if, during the term of this Agreement, the Entity or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to insufficient appropriation by the Legislature to the DOH. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE ENTITY'S DEFAULT/BREACH OF THIS AGREEMENT.*

**10. APPLICABLE LAW**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978 Section 38-3-1(G). By execution of this Agreement, the Entity acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. The parties agree to abide by all state and federal laws and regulations.

**11. PERIOD OF AGREEMENT**

This Agreement shall be effective upon approval of both parties, whichever is later and shall terminate on **June 30, 2023**, or as stated in **ARTICLE 9, Termination of Agreement**. Any and all amendments shall be made in writing and shall be agreed to and executed by the respective parties before becoming effective.

**12. FEDERAL GRANT OR OTHER FEDERALLY FUNDED AGREEMENTS.**

- A. Lobbying. The Entity shall not use any funds provided under this Agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, et. seq., and applicable federal law. No federal appropriated funds can be paid or will be paid, by or on behalf of the Entity, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any applicable Federal contract, grant, loan, or cooperative agreement, the Entity shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. Suspension and Debarment. For contracts which involve the expenditure of Federal funds, each party represents that neither it, nor any of its management or any other employees or independent Entities who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other Federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent Entities are not otherwise ineligible for participation in Federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent Entities. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

- C. Political Activity. No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.
- D. Grantor and Entity Information.
1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
    - i. Catalog of Federal Domestic Assistance (CFDA): 93.069
    - ii. Program Title: Public Health Emergency Preparedness (PHEP) Cooperative Agreement
    - iii. Agency/Office: Department of Health and Human Services - Centers for Disease Control and Prevention (CDC) Office of Financial Resources
    - iv. Grant Number: 6 NU90TP922050-03
  2. ENTITY'S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is **095746517**.
- E. Entity Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].
1. This Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on Entity employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
  2. The Entity shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
  3. The Entity shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.
- F. For contracts and subgrants which involve the expenditure of Federal funds for amounts in excess of \$150,000, requires the Entity to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- G. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For contracts which involve the expenditure of Federal funds, Entities that apply or bid for a contract exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- H. For contracts which involve the expenditure of Federal funds, Entity must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

IN WITNESS WHEREOF the parties have executed this AGREEMENT at Santa Fe, New Mexico. The effective date is upon approval of both parties, whichever is later.

**New Mexico Department of Health**

**Torrance County**

By: \_\_\_\_\_  
Authorized Signature Designee

By: Janice Y. Barela

Date: \_\_\_\_\_

Date: 7.27.2022

Certified For Legal Sufficiency:

By: \_\_\_\_\_  
Department of Health  
Assistant General Counsel

By: [Signature] 7/27/22

Date: \_\_\_\_\_

Date: \_\_\_\_\_