

PROFESSIONAL SERVICES AGREEMENT
Between
KITSAP PUBLIC HEALTH DISTRICT
And
FRANCISCAN HEALTH SYSTEM

This Professional Services Agreement (“Agreement”) is made and entered into between the Kitsap Public Health District, a Health District organized pursuant to chapter 70.46 Revised Code of Washington and Section 9.52 Kitsap County Code, hereinafter referred to as “District,” and Franciscan Health System, hereinafter referred to as “Subcontractor OR Subrecipient.” The parties mutually agree as follows:

1. **Period of Performance:** The period of performance of this Agreement shall begin January 21, 2021 and be completed no later than July 21, 2021 unless terminated sooner or extended as provided for herein.

2. **Purpose:** Kitsap County is committed to quickly, efficiently, and equitably vaccinating all eligible persons against COVID-19 to stop the spread of this disease and help end the COVID-19 pandemic. This requires collaboration and coordination between the District, healthcare providers, and other entities. This Agreement provides a means for Subcontractor, who is conducting mass vaccination clinics to support Kitsap Public Health District’s COVID-19 Mass Vaccination Plan, to receive federal reimbursement for allowable expenses. Mass vaccination clinics are defined by the Washington State Department of Health as clinics conducted outside of the usual healthcare delivery methods such as pop-up clinics, mobile clinics, and clinics at non-clinical facilities (fairgrounds, arenas, etc.).

3. **Qualifications/Eligibility:**
 - A. Subcontractor will have the qualifications necessary to successfully complete the objectives of this Agreement. Subcontractor hereby affirms that he/she is eligible to work in the United States as set forth in the Immigration Reform and Control Act (IRCA).

 - B. Eligible costs for the Period of Performance include facility rentals, medical and support staff for planning, management, support, and operations, including wrap-around services for staff (i.e., meals, travel, lodging, as necessary) for mass vaccination clinics held in Kitsap County.

 - C. Regular and overtime pay associated with mass vaccination clinic planning and operations under this Agreement is allowable for all staff working under this Agreement, and must be billed as a direct charge. Timesheets are required documentation and must be available upon request by the District or Washington State Department of Health (DOH). Timesheets shall include time-in / time-out and a brief description of the billable activity.

 - D. Indirect rates are not eligible for reimbursement under this Agreement.

 - E. Eligible equipment includes facility infection control measures, personal protective equipment (PPE), storage equipment, coolers, freezers, temperature monitoring devices, portable vaccine units for transportation, supplies such as emergency medical supplies (for emergency medical care needs that may arise in the administration of vaccine), containers for medical waste disposal, and storage equipment as needed for canisters of liquid nitrogen or dry ice. Eligible equipment purchases for reimbursement under this Agreement shall not exceed \$5,000 per piece.

Equipment costs greater than \$5,000 per piece must be preapproved before purchase and reimbursement by District and DOH, and should be leased rather than purchased.

F. Any diversion from the preceding list of pre-approved expenses will require a narrative on the purchase rationale and will be subject to District and DOH approval prior to reimbursement.

4. **Services:** Refer to **ATTACHMENT A** Scope of Work.

A. Subcontractor agrees to provide its own labor and materials. Unless otherwise provided for in the agreement, no material, labor or facilities will be furnished by the District.

B. Subcontractor will perform the work specified in the Agreement and provide the required deliverables according to standard industry practice.

C. As an enrolled COVID-19 vaccine provider, Subcontractor will follow Washington State Department of Health's requirements for vaccine administration, storage, reporting, and other related tasks.

D. Subcontractor has not billed Medicare, Medicaid, or other insurance for COVID-19 mass vaccination clinics.

5. **Compensation:** The District agrees to reimburse Subcontractor for up to 100% of eligible direct costs for mass vaccination clinic expenses as described in this Agreement during the Period of Performance. Reimbursement will be based on the invoices submitted by Subcontractor using a monthly cost worksheet provided by the District. Subcontractor will be reimbursed only for work expressly authorized in the Agreement and only for qualified expenses as described in the Washington State Department of Health's Mass Vaccination Funding Guidance for Local Public Health Jurisdictions (dated March 19, 2021) (**ATTACHMENT B**). Subcontractor will not be entitled to reimbursement for any services that were performed prior to the effective date of the Agreement or after its termination unless a provision of the Agreement expressly provides otherwise. Subcontractor shall submit reimbursement requests and required reports on a monthly basis.

6. **Federal Source of Funds:** The funding source for this Agreement is Federal.

7. **Emergency Waivers of Existing Procurement Procedures.** In March 2020, Kitsap County and the Cities of 2020, Kitsap County and the Cities of Bainbridge Island, Bremerton, Port Orchard, and Poulsbo issued emergency proclamations regarding the COVID-19 pandemic. These proclamations waived particular local public advertising, competitive procurement, and contract requirements as provided by RCW 39.04.280 and, as applicable, local city codes excepting mandatory constitutional amendment requirements. While non-state entities must follow procurement requirements found at 2 C.F.R. §§ 200.317 – 200.326, federal regulations allow for noncompetitive procurements under certain circumstances, including when a non-state entity determines that immediate actions required to address the public exigency or emergency cannot be delayed by a competitive solicitation. This represents an exception to requirements for full and open competition. Federal Emergency Management Agency (FEMA) approval is not required for use of noncompetitive procurements under the emergency or exigency exception; however, the non-state entity must document its justification for using noncompetitive procurements and must still comply with other procurement requirements and ensure that costs are reasonable.

8. **Performance Requirements and Notices:** The assigned District staff will monitor the performance of this contract, approve billings submitted by the Subcontractor, and determine the acceptability of required documentation provided by the Subcontractor. District staff will provide and facilitate assistance and guidance to the Subcontractor as necessary. Deliverables and notices pursuant to this agreement shall be sent to the designated District Program Coordinator who is responsible for project coordination:

If to the District:

Kitsap Public Health District
Attn: Jessica Guidry
345 6th Street, Suite 300
Bremerton, WA 98337
(360) 728-2267
jessica.guidry@kitsappublichealth.org

If to the Subcontractor:

Franciscan Health System
Attn: Michelle Anderson
1717 S J Street, MS 070-01
Tacoma, WA 98405
(206) 854-8696
michelleanderson@chifranciscan.org

9. **Billings:** Billings to the District shall be submitted monthly by the 10th of the following month. Billings shall be sent to:

Kitsap Public Health District
Attn: Melissa Laird
345 6th Street, Suite 300
Bremerton, WA 98337
melissa.laird@kitsappublichealth.org

Email submission of invoices is encouraged. However, original hardcopies of the signed invoice are required and shall be mailed to the District. Full backup is required for all expenditures. Backup documentation can include, but is not limited to receipts, invoices, billing records, work orders, positive time and attendance records (timesheets), travel vouchers and accounting expense reports. Failure to provide the required information may result in nonpayment of invoices or termination of this contract.

10. **Tax Payments:** Subcontractor will pay all applicable federal, state and local taxes, fees (including licensing fees) and other amounts.
11. **Independent Capacity:** Subcontractor and its employees or agents who are engaged in the performance of this Agreement shall continue to be employees or agents of Subcontractor and shall not be considered to be employees or agents of the District for any purpose.
12. **Assignment, Delegation, and Subcontracting:** Subcontractor will perform under the Agreement using only its bona fide employees or agents, and the obligations and duties of Subcontractor under the Agreement will not be assigned, delegated or subcontracted to any other person or firm without the prior express written consent of the District.

Subcontractor warrants that it has not paid, nor has it agreed to pay, any company, person, partnership or firm, other than a bona fide employee working exclusively for Subcontractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Agreement.

13. **Rights in Data:** Unless otherwise provided, data which originates from this Agreement shall be “works for hire” as defined by the U.S. Copyright act of 1976 and shall be owned by the District. Data shall include, but is not limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The District maintains all rights to the license to publish, translate, reproduce, modify, deliver, dispose of the data, and to authorize others to do so.

All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under the Agreement will be “works for hire” as defined by the U.S. copyright Act of 1976 and will be owned by the District. Ownership includes the right to copyright, patent, and register, and the ability to transfer these rights.

An electronic copy of all word processing documents will be submitted to the District upon request or at the end of the job using the word processing program and version specified by the District.

14. **Indemnification:** Subcontractor shall defend, indemnify and hold the District, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Subcontractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the District. Solely for the purposes of this provision, Subcontractor waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated by the parties. This provision will survive the expiration or termination of this Agreement.

Contractor will hold harmless, indemnify and defend the District, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the District, where such action is based on the claim that information supplied by Contractor or subcontractor infringes any patent or copyright. Contractor will be notified promptly in writing by the District of any notice of such claim.

15. **Insurance:** Subcontractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Subcontractor, its agents, representatives, or employees. The District shall be named as an insured under the Subcontractor’s Commercial General Liability insurance policy with respect to work performed for the District under this Agreement.

No Limitation. Subcontractor’s maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Subcontractor to the coverage provided by such insurance, or otherwise limit the District’s recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Subcontractor shall obtain insurance of the types described below:

1. **Automobile Liability** insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The District shall be named as an insured under the Subcontractor's Commercial General Liability insurance policy with respect to the work performed for the District.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the state of Washington.
4. Professional Liability insurance appropriate to the Subcontractor's profession. The Subcontractor shall provide the District with proof of liability insurance or professional errors and omissions coverage as appropriate.

B. Minimum Amounts of Insurance

Subcontractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. Subcontractor's insurance coverage shall be primary insurance as respect the District. Any insurance, self-insurance, or insurance pool coverage maintained by the District shall be excess of the Subcontractor's insurance and shall not contribute with it.
2. Subcontractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Subcontractor shall furnish the District with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of Subcontractor before commencement of the work.

16. **Safeguarding of Information and Privacy:** The use or disclosure by any party of any information concerning a client obtained in providing service under this agreement shall be subject to Chapter 42.56 RCW and Chapter 70.02 RCW, as well as any other applicable federal and state statutes and regulations. Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this Agreement. Subcontractor agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

Subcontractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to personal information. Any unauthorized access or use of confidential information must be reported to the District Security Officer at (360) 728-2232. The notification must be made in the most expedient time possible (usually within 24 hours of discovery) and without unreasonable delay, consistent with the legitimate needs of law enforcement, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

The District reserves the right to monitor, audit, or investigate the use of personal information collected, used, or acquired by the Subcontractor through this Agreement. The monitoring, auditing, or investigating may include but is not limited to “salting” by the District. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Subcontractor shall certify the return or destruction of all personal information upon expiration of the Agreement.

17. **Records Maintenance:** The parties to this Agreement shall each maintain books, records, documents, and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to the inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

If any litigation, claim or audit is started before the expiration of the six-year period, the records shall be retained until all litigation, claims, or audit finding involving the records have been resolved.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving that party a reasonable opportunity to respond. Each party will utilize

reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

All Records except medical and client treatment records or records otherwise exempt by law, shall be considered to be public records and maintained in accordance with applicable laws. Medical client treatment records of all kinds shall be considered confidential. Subcontractor agrees to notify District immediately if there is a breach of security of any system maintained by Subcontractor that includes personal information (as defined in RCW 19.255.010) acquired in connection with Subcontractor's performance of Services under this Contract.

All Records, including pre-contract documents (such as bid documents), supplied by Subcontractor shall be considered to be public records. Subcontractor acknowledges that District is a public entity subject to the Public Records Act, Chapter 42.56 RCW. Subcontractor further acknowledges that Records submitted to District may be subject to release to a third party. If Subcontractor believes that any Records should be confidential (such as trade secret or other proprietary data) Subcontractor must mark such Records accordingly. If District receives a request for Records which would include Records marked by Subcontractor as confidential, District will contact and notify the Contractor of the request. If Subcontractor desires to prevent release of the Record, it shall be Subcontractor's sole responsibility to obtain a court order enjoining the release. Nothing in this section shall be deemed to impose any duties, obligations, or liability upon District for the release of Records regardless of whether they are marked confidential.

18. **Written Policies and Procedures/Documents on File:** Written policies and procedures, consistent with federal and state regulations, as applicable, will be kept on file in the office of the Subcontractor and available for review at the request of District staff. Such policies and procedures will include, but not be limited to, as appropriate:

- Job Descriptions
- Confidentiality Policy
- Community Needs Assessment

In addition, Subcontractor will keep on file and make available for review by District staff documents consistent with federal and state regulations that will include but are not limited to the latest agency audit and subcontractor agreements. The Subcontractor will include these requirements in all approved subcontracts.

19. **Required Reports:** Subcontractor will submit required reports quarterly using required forms according to procedures issued by the District.

Subcontractor will be obligated to submit required reports after the close of the contract period, during the transfer of obligations to another contractor, or upon termination of the contract for any reason.

Subcontractor will include all requirements listed above in all approved subcontracts.

Due dates outside the Period of Performance are for reporting only. Subcontractor may not bill for work done outside the Period of Performance.

20. **Statutory and Regulatory Compliance:** Subcontractor shall comply with all applicable federal, state, and local laws, regulations, guidelines, and standards in the performance of this Agreement.
21. **Compliance with State and Federal Confidentiality Laws:** Subcontractor shall not use or disclose any protected health information (PHI) or personally identifiable information (PII) created or shared under this Agreement for any purpose not directly connected with this Agreement or in any manner that would constitute a violation of the Health Information Portability and Accountability Act, commonly known as HIPAA, and any regulations enacted pursuant to its provisions. Any PHI or PII collected, used, or acquired in connection with this Agreement shall be subject to Chapter 42.56 RCW and chapter 70.02 RCW, as well as any other applicable federal and state statutes and regulations. Contractor agrees not to release, divulge, publish, transfer, sell, or otherwise make known to unauthorized persons PHI or PII without the express written consent of the District. For the purpose of this section, PII means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, or mother's maiden name, etc. Contractor shall sign a Business Associate Agreement which is incorporated into this Agreement as **ATTACHMENT C**.
22. **Certification Regarding Suspension and Debarment:** Subcontractor, by completing and returning to the District the "Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form," and completing, signing and returning to the District the "Certification Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion for Lower Tier Covered Transactions" form, (to be supplied to lower tier participants; see **ATTACHMENT D**), certifies that it is not debarred, suspended, or proposed for debarment by any federal agency.
23. **Suspension of Performance and Resumption of Performance:** In the event contract funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, the District may give notice to Subcontractor to suspend performance as an alternative to termination. The District may elect to give written notice to Subcontractor to suspend performance when the District determines that there is a reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow performance to be resumed prior to the end date of this Agreement. Notice may occur by facsimile or email to Subcontractor's representative. Subcontractor shall suspend performance on the date stated in the written notice to suspend. During the period of suspension of performance, each party may inform the other of any conditions that may reasonably affect the potential for resumption of performance.

When the District determines that the funding insufficiency is resolved, the District may give Subcontractor written notice to resume performance and a proposed date to resume performance. Upon receipt of written notice to resume performance, Subcontractor will give written notice to the District as to whether it can resume performance, and if so, the date upon which it agrees to resume performance. If Subcontractor gives notice to the District that it cannot resume performance, the parties agree that the Agreement will be terminated retroactive to the original date of termination. If the date Subcontractor gives notice it can resume performance is not acceptable to the District, the parties agree to discuss an alternative acceptable date. If an alternative date is not acceptable to the District, the parties agree that the Agreement will be terminated retroactive to the original date of termination.

24. **Non-Discrimination**: Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veteran status, sexual preference, or the presence of any sensory mental or physical handicap.
25. **Waiver**: A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing, signed by an authorized representative of the party and attached to the original Agreement.
26. **Assignment**: The work to be provided under this Agreement and any claim arising thereunder, is not assignable or delegable by either party in whole or in part without the express prior written consent of the District, which consent shall not be unreasonably withheld.
27. **Changes in Work**: In the event of any errors or omissions by Subcontractor in the performance of any work required under the Agreement, Subcontractor will make all necessary corrections without additional compensation. All work submitted by Subcontractor will be certified by Subcontractor and checked by Subcontractor for errors and omissions. Subcontractor will continue to be responsible for the accuracy of work even after the work is accepted by the District.
28. **Amendment**: This Agreement may be modified only by a written amendment executed by authorized representatives of both parties.
29. **Termination**: This Agreement may be terminated by either party upon giving at least thirty (30) days advance written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
 - A. **For Convenience**: Either party may terminate the Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other. Subcontractor shall be paid for work performed and expenses incurred to the date of termination.
 - B. **For Funding**: If funding for the Agreement or matter is withdrawn, reduced or limited in any way after the Agreement is signed or becomes effective, the Parties may summarily terminate the Agreement notwithstanding any other termination provision in the Agreement. Termination under this provision will be effective upon the date specified in the written notice of termination. No costs incurred after the effective date of the termination will be paid.
 - C. **For Cause**: If either party fails to perform in the manner called for in the Agreement, or if either party fails to comply with any other provision of the Agreement and fails to correct such noncompliance with thirty (30) days written notice thereof, the aggrieved party may terminate the Agreement for cause. Termination shall be affected by serving a notice of termination on the party setting forth the manner in which the party is in default. Subcontractor shall be paid for services performed in accordance with the manner of performance set forth in this Agreement.
 - D. **For Default**: Either party may terminate the Agreement upon giving written notice to the other party in the event the other party is in breach of a material provision of this agreement and shall have failed to cure such breach within thirty (30) days.

In the event of termination, Subcontractor shall settle all outstanding liabilities and all claims arising out of such termination of orders, with the approval or ratification of the District to the extent the District may require, which approval or ratification shall be final for all the purposes of this clause.

30. **Governance**: This agreement is entered into pursuant to and under the authority granted by the laws of the State of Washington and applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.
31. **Dispute Resolution**: In the event that a dispute or conflict arises under the Agreement that the Parties are unable to resolve with good faith efforts, they shall allow the dispute to be decided by a Dispute Panel in the following manner: a Mediator shall be mutually appointed by both parties, and each party shall appoint an additional member to the Dispute Panel. The Dispute Panel shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Panel shall be final and binding on the Parties hereto. The Parties shall equally share the costs, if any, for the services of the Dispute Panel.
32. **Severability**: If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.
33. **Choice of Law**: The Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that the Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of the Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Kitsap County, Washington.
34. **No Waiver**: The Parties agree that the excuse or forgiveness of performance, or waiver of any provisions of the Agreement, does not constitute a waiver of such provision or future performance, or prejudice the right of the waiving party to enforce any of the provisions of the Agreement at a later time.
35. **Survival**: Those provisions of the Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include, but are not necessarily limited to, the following: Indemnification, Termination, Disputes, Confidentiality, Choice of Law, No Waiver, Records Inspection and Retention, and Severability.
36. **Subcontracting**: Subcontractor shall not enter into subcontracts for any of the work contemplated under this Agreement without prior written approval of the District. In no event shall the existence of the subcontract operate to release or reduce the liability of Subcontractor to the Department for any breach in the performance of the Subcontractor's duties. This clause does not include contracts of employment between the Subcontractor and personnel assigned to work under this Agreement. Additionally, Subcontractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Agreement are carried forward to any subcontracts. Subcontractor agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the District or as provided by law.

If at any time during the progress of the work, the District determines in its sole judgment that any contractor is incompetent, the District shall notify Subcontractor, and Subcontractor shall take immediate steps to terminate its subcontractor’s involvement in the work. The rejection or approval by the District of any subcontractor or the termination of a subcontractor shall not relieve Subcontractor of any of its responsibilities under the Agreement, nor be the basis for additional charges to the District.

- 37. **Personnel Removal:** Subcontractor agrees to remove immediately any of its subcontractors, employees, agents, or representatives from assignment to perform services under the Agreement upon receipt of a written request to do so from the District’s contract representative or designee.
- 38. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties regarding its subject matter. Any oral or written representations not expressly incorporated in this Agreement are specifically excluded.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

KITSAP PUBLIC HEALTH DISTRICT _____

FRANCISCAN HEALTH SYSTEM

By: Keith Grellner
Keith Grellner
Administrator

By: David Butcherite
David Butcherite
Chief Finance Officer

Date: 6/10/2021

Date: 6/25/2021

| Funding Source |
|--|
| Federal Contract/Grant: DOH Con Con CLH18248 (KPHD 1749) CFDA# 97.036 BARS Revenue Code: 333.97.03 |

MISCELLANEOUS: FEDERAL CONTRACTS REQUIRE ADDITIONAL PROVISIONS:

Check CFR requirements: https://www.ecfr.gov/cgi-bin/text-idx?SID=031b616b44ba7a18d1a96656ea144d44&mc=true&node=ap2.1.200_1521.ii&rgn=div9

Majority of the required terms will not apply but the ones to watch for:

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

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37 CFR 401.2(2) defines "funding agreement" as "The term funding agreement means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph."

If the contract/grant is over \$100,000 and involves bidding or an application for the award: Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) provision needs to be added

ATTACHEMENT A SCOPE OF WORK

Subcontractor, performing mass vaccination clinic services as outlined in this Agreement and seeking reimbursement for such services, agrees to the following scope of work:

1. Subcontractor shall keep District informed about mass vaccination work it conducts within Kitsap County, and shall provide timely vaccine/vaccination data as requested by District.
2. Subcontractor shall strive to administer vaccine in an efficient, equitable, and safe manner in accordance with CDC and DOH protocols and guidelines.
3. Subcontractor shall only seek reimbursement from District for eligible mass vaccination clinics, held in Kitsap County; “mass vaccination clinic” is defined by DOH as “vaccination clinics outside of the usual healthcare delivery method such as pop-up clinics, mobile clinics, drive-through clinics, etc., in a non-clinical facility (e.g., new/separate buildings from regular clinic sites, parking lots, fairgrounds, etc.)” or outside of / in addition to regular medical environment (e.g., eye doctors, dentists, surgeons, etc., who are not normally registered vaccine providers or who do not regularly provide vaccination services).
4. Subcontractors shall only bill direct costs; indirect costs not allowed.
5. Subcontractors shall prepare and submit monthly invoices and reports as required by this Agreement.
6. Subcontractor shall report vaccine use in WA IIS database in accordance with DOH guidance.
7. Subcontractor shall strive to provide equitable access to vaccine and vaccine appointments.
8. Subcontractor shall not submit reimbursement requests for vaccination work that has already been billed through other means or for which reimbursement has been / will be received outside of this Agreement.
9. Subcontractor shall use the cost summary workbook template provided by District to prepare and submit reimbursement requests.
10. Subcontractor shall compile and retain back-up documentation for reimbursement requests in accordance with FEMA requirements.

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ATTACHMENT B

See Attachment B – Washington State Department of Health Mass Vaccination Funding Guidance for Local Health Jurisdictions (March 2021)

ATTACHMENT C HIPAA BUSINESS ASSOCIATE AGREEMENT

This Agreement (“Agreement”) is entered into by and between the Kitsap Public Health District (“Covered Entity”) and Franciscan Health System (“Business Associate”).

Section I: Purpose

Performance of the Underlying Agreement may require Business Associate to use or disclose protected health information that is subject to provisions of the Health Insurance Portability and Accountability Act of 1996, set forth in 45 C.F.R. Parts 160 and 164 (commonly known as the “HIPAA Rules”).

The purpose of this Agreement is to set forth the obligations of the Parties with regard to the way in which protected health information is created, used, disclosed, maintained, provided or received on behalf of Covered entity by the Business Associate.

Section II. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Health Information, and Use.

Specific Definitions:

1. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to this Agreement shall mean Franciscan Health System.
2. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” in 45 CFR 160.103, and in reference to the party in this Agreement shall mean the Kitsap Public Health District.
3. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and 164.

Section III. Obligations and Activities of Business Associate

Business Associate agrees to:

1. Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
2. Use appropriate safeguards, and comply with Subpart C of 45 CFR, Part 164 with respect to protected electronic health information and to prevent use or disclosure of protected health information other than as provided for by this Agreement.
3. Report to Covered Entity any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required by 45 CFR 164.410, and any security incident of which it becomes aware.

Business Associate agrees to promptly notify Covered Entity following the discovery of a Breach of unsecured PHI. A Breach is considered “discovered” as of the first day on which the Breach is known, or reasonably should have been known, to Business Associate or any employee, officer or agent of Business Associate, other than the individual committing the Breach. Any notice of a Security Incident or Breach of Unsecured PHI shall include the identification of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Security Incident or Breach as well as any other relevant information regarding the Security Incident or Breach.

4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
5. Business Associate agrees to mitigate, to the extent possible, any harmful resulting from use or disclosure of PHI by Business Associate or its agents or subcontractors, in violation of the requirements of this Agreement.
6. Maintain and make available protected health information in a designated record set to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524.

If an Individual makes a request for access to the protected health information directly to Business Associate, business associate shall notify covered entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

7. Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526.

If an Individual makes a request for amendment to the protected health information directly to Business Associate, Business Associate shall notify Covered Entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

8. Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528.

If an Individual makes a request for accounting of disclosures directly to Business Associate, Business Associate shall notify Covered Entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

9. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligations(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
10. Make its internal practices, books, and records available to the Secretary of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

Section IV. Permitted Uses and Disclosures by Business Associate

1. Business Associate may only use or disclose protected health information as necessary to perform the services as outlined in the underlying agreement.
2. Business Associate is not authorized to use protected health information to de-identify the information in accordance with 45 CFR 164.514(a)-(c).
3. Business Associate may use or disclose protected health information as required by law.
4. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures.

Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity except for the specific used and disclosures set forth below:

- a) Business Associate may disclose protected health information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

Section V. Termination

1. Termination for Cause. Business Associate authorizes termination of the Agreement if Covered Entity determines Business Associate has violated a material term of the Agreement and has not cured the breach or ended the violation within the time specified by Covered Entity.
2. Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.

In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of protected health information is infeasible, Business Associate shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such protected health information.

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3. The obligations of Business Associate under this section shall survive the termination of this Agreement.

Section VI. Miscellaneous

1. A reference in this agreement to a section in the HIPAA Rules means the section as in effect or amended.
2. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the HIPAA Rules and any other applicable law.
3. Any ambiguity in this Agreement shall be resolved to permit compliance with the HIPAA Rules.

Kitsap Public Health District**ATTACHMENT D - Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form**

Health District Contract Number 2180

| | | |
|---|--|---|
| NAME Franciscan Health System | Doing Business as (DBA) Franciscan Health System | |
| ADDRESS 1717 South J Street MS 07-00 | Washington Uniform Business Identifier (UBI) 278 002 934 | Federal Employer Tax Identification Number 91-0564491 |

Instructions For Certification Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion For Lower Tier Covered Transactions

READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds. This certification is submitted as part of a request to contract.

- By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
- Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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Kitsap Public Health District

Certification

**Regarding Debarment, Suspension, Ineligibility or
Voluntary Exclusion For Lower Tier Covered Transactions**

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

David Butcherite

Contractor Signature

6/25/2021

Date

David Butcherite

CFO (Interim)

Print Name and Title