

**AGREEMENT BETWEEN THE COUNTY OF TULARE  
AND \_\_\_\_\_  
FOR THE GRANT OF HOSPITAL BIOTERRORISM PREPAREDNESS EQUIPMENT,  
SUPPLIES AND RESOURCES**

**BACKGROUND**

In response to the potential for future bioterrorist incidents, Congress authorized funding to support activities related to countering potential biological threats. As part of this initiative, the U.S. Health Resources and Services Administration (HRSA) administers cooperative agreements with state, territorial, and selected municipal offices of public health. The program is administered in California by the California Department of Health Services through the local public health agencies.

The purpose of the cooperative agreement program is to upgrade the preparedness of the Nation's hospitals and collaborating entities to respond to bioterrorism. This includes the development and implementation of regional bioterrorism preparedness plans and protocols to improve the capacity of hospitals, their emergency departments, EMS systems, outpatient centers, and other collaborating health care entities for response to a bioterrorist incident.

**THE AGREEMENT**

**Article 1. County's Obligations.**

**1.1 Equipment & Resources.**

The County will provide \_\_\_\_\_, ("Contractor") with the equipment, supplies and/or other resources set forth in Exhibit A, which is attached and incorporated into this Agreement.

**1.2 Selection of Equipment.**

The County will select the equipment and supplies provided under this Agreement at its discretion, taking into consideration the recommendations of the Contractor.

**1.3 Warranties.**

Except for the manufacturers' warranties, if any, the equipment and supplies provided under this Agreement are being provided "as is", and all other warranties, express or implied are disclaimed.

## **Article 2. Contractor's Obligations.**

### **2.1 Scope of Work.**

Contractor shall carry out the activities set forth in Exhibit B, which is attached and incorporated into this Agreement.

### **2.3 Equipment Maintenance.**

Contractor is solely responsible for the service and maintenance of equipment and supplies provided under this Agreement.

### **2.3 Ownership of and Responsibility for Equipment and Supplies.**

The equipment and supplies granted shall be considered the property of Contractor. Contractor shall maintain and administer a sound business program for ensuring the proper use, protection, insurance and preservation of the equipment granted under this Agreement. Contractor may not sell, transfer or otherwise dispose of any equipment or supplies granted under this agreement without prior written approval by County. Contractor shall take reasonable steps to ensure that all equipment and supplies granted under this agreement are made available for use pursuant to a bonafide request for mutual-aid or inter-agency disaster assistance.

### **2.4 Master Grant Agreement Obligations.**

This agreement is subject to the requirements of the Health Resources and Services Administration (HRSA) National Bioterrorism Hospital Preparedness Program Local Funding Agreement between the California Department of Health Services (CDHS) and the County of Tulare for budget period September 1, 2003 through August 31, 2004 ("Master Grant Agreement"), which is attached as Exhibit C and incorporated into this Agreement. Contractor is required to comply with all applicable requirements of the Master Grant Agreement. Those terms or conditions which CDHS requires the County to impose on its subcontractors are hereby imposed on Contractor. If there is any conflict between this Agreement and the Master Grant Agreement, the requirements of the Master Grant Agreement shall control.

## **Article 3. Term and Termination.**

### **3.1 Term of Agreement.**

This Agreement is effective beginning January 1, 2006.

### **3.2 Termination.**

- (a) Termination for Cause. County may terminate this Agreement for cause upon written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (a) material breach of this Agreement by Contractor, (b) violation by Contractor of any applicable laws, (c) assignment by Contractor of this Agreement without the written consent of County, or (d) a decision by the federal government or the State of California not to fund the provision of the resources granted herein. Such notice shall specify the reason for termination and shall indicate the effective date of such termination.
- (b) Termination for Convenience. Either party may terminate this Agreement without cause by giving the other party thirty (30) days written notice.
- (c) Notwithstanding any other provision of this Agreement, if this Agreement is terminated all equipment and supplies not fully consumed will be returned to the County. County shall be under no obligation to pay the cost of restoration or rehabilitation of Contractor's property that may be affected by the removal of equipment or supplies.

## **Article 4. Liability.**

### **4.1 Mutual Indemnification.**

Each party agrees to indemnify, defend, and hold harmless the other party and its officers, directors, trustees, employees, agents (together "Employees and Agents") from any claim, liability or loss, including reasonable attorneys' fees arising out of or resulting from the acts or omissions of the indemnifying party or any of its Employees or Agents in connection with this Agreement, excepting only loss, injury or damage caused by the sole negligence of willful misconduct of the non-indemnifying party's Employees and Agents. Each party shall notify the other party immediately in writing of any claim of injury or damage related to activities performed pursuant to this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities of this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under the peer review privilege, the attorney-client privilege or the attorney work-product privilege. The provisions of this section shall survive the termination of this Agreement.

### **4.2 Limitation of County's Liability.**

The County is not liable for any damages experienced by the Contractor, or any person or entity arising as a result of:

- (a) Contractor's use or misuse of the equipment or supplies granted under

this Agreement;

- (b) Contractor's failure to provide services pertaining to the equipment or supplies granted under this Agreement; or
- (c) any defects in the equipment or supplies granted under this Agreement.

## **Article 5. Miscellaneous.**

### **5.1 Notice.**

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To the CONTRACTOR:

To the County:

Kristin Bennett, Interim Director  
County of Tulare  
Health & Human Services Agency  
5957 S. Mooney Blvd.  
Visalia, CA 93277

### **5.2 Compliance and Nondiscrimination.**

The parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 (Sections 503 and 504), the California Fair Employment and Housing Act (Government Code sections 12900 et seq.), and California Labor Code sections 1101 and 1102. The parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the parties discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual

orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

**5.3 Relationship of Parties; Independent Contractors.**

The parties will perform all work and services described in this Agreement as independent contractors and not as officers, agents, servants or employees of the other. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party has the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided in this Agreement.

**5.4 Governing Law.**

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

**5.5 Assignment.**

The parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

**5.6 Entire Agreement.**

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

**5.7 Amendments.**

This Agreement may only be amended by an instrument signed by the parties.

**5.8 Counterparts.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**5.9 Severability.**

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

**5.10 Waiver.**

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

**IT IS SO AGREED:**

**CONTRACTOR**

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Title: \_\_\_\_\_

**TULARE COUNTY**

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Title: \_\_\_\_\_

**Exhibits to this Agreement:**

- Exhibit A: Equipment and Supplies
- Exhibit B: Scope of Work
- Exhibit C: Master Grant Agreement

**Organization:** \_\_\_\_\_

<b>EQUIPMENT TO BE RECEIVED:</b>	<b>QUANTITY</b>

**Note:** Radio equipment is an enhancement to the EMS system and not to be used to replace existing required EMS communication equipment.

**Organization:** \_\_\_\_\_

In recognition of receipt of the equipment, supplies, funding, and/or other benefit received by CONTRACTOR from the Health Resources and Services Administration (HRSA) National Bioterrorism Hospital Preparedness Program Local Funding, identified in Attachment A, CONTRACTOR shall be responsible for the following:

1. Provide for storage and maintenance of any/all supplies and equipment consistent with manufacturers recommendations.
2. Provide for initial and ongoing staff training in the safe and appropriate use of equipment and/or supplies.
3. Provide a suitable physical location for the storage container, as well as any electrical, mechanical, security and/or other services needed to maintain the materials to be stored within the container.
4. Maintain an inventory of equipment and report location and condition of equipment when requested.
5. Report any irreparable damage, loss, or lack of availability of supplies of equipment to the COUNTY.

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