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Agenda Date: 11/19/2020
Council Meeting



Information Packet

ITEM(S)

File ID 20-001578 (4-B) Approve agreement with United Health Centers to fund COVID testing events

Contents of Supplement: United Health Care Agreement

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

**GRANT AGREEMENT BETWEEN
THE CITY OF FRESNO AND
UNITED HEALTH CENTERS OF THE SAN JOAQUIN VALLEY
REGARDING COVID-19 TESTING**

THIS GRANT AGREEMENT (AGREEMENT) is made and entered into effective upon execution by both parties (the Effective Date), by and between the CITY OF FRESNO (the CITY), and UNITED HEALTH CENTERS OF THE SAN JOAQUIN VALLEY (GRANTEE), to provide COVID-19 testing services.

RECITALS

WHEREAS, GRANTEE is a federally qualified health clinic in the business of providing and processing COVID-19 tests; and

WHEREAS, the CITY is experiencing a second wave of COVID-19 infections which will result in Fresno County returning to "purple tier" status; and

WHEREAS, The CITY, County, and community-based organizations have identified a significant gap in COVID-19 testing and wish to enter into this Agreement to provide additional testing events focused on hot spot zip codes and the City's most vulnerable residents as identified by CITY and its collaborative partners; and

WHEREAS, this program is a necessary expenditure occasioned by the COVID-19 public health emergency, not accounted for in the CITY's budget as of March 27, 2020; and

WHEREAS, GRANTEE represents it desires to and is professionally and legally capable of immediately implementing the program; and

WHEREAS, GRANTEE acknowledges that grant funds being provided under this Agreement will be derived from the CITY's Coronavirus Relief Fund allocation under the federal CARES Act (42 U.S.C. 801 et seq.) and subject to the constraints set forth in the CARES Act; and

WHEREAS, this Agreement will be administered for the CITY by its City Manager or designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. GRANTEE shall perform to the satisfaction of the CITY the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.

2. Grant Amount. CITY shall provide GRANTEE the amount not to exceed \$600,000 for the services described in **Exhibit A**, payable within 10 days of the Effective Date. GRANTEE shall be afforded flexibility to allocate grant funds between services and supplies to fulfill the intent of this Agreement, without further CITY approval.

3. Term of Agreement and Time for Performance.

(a) This Agreement shall be effective from the Effective Date through December 30, 2020, subject to earlier termination in accordance with this Agreement. The services as described in **Exhibit A** are to commence upon the Effective Date and shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.

(b) The parties understand and agree that pursuant to the CARES Act (42 U.S.C. 801), all Program funds must be expended or otherwise committed by December 30, 2020. Program funds committed by December 30, 2020, may be delivered in the usual course of business pursuant to CARES Act guidance issued by the Department of Treasury. CITY and GRANTEE shall meet regularly to ensure all funding will be awarded or otherwise committed by December 30, 2020. CITY reserves the right to recoupment of, and GRANTEE acknowledges its obligation to repayment of, Program funds not expended or otherwise committed by December 30, 2020.

(c) Notwithstanding the foregoing, if the Federal Government takes action to extend the applicability of CARES Act funding beyond December 30, 2020, then this Agreement shall be automatically extended to February 28, 2021, subject to any terms and conditions of the extension of CARES Act funding.

4. Amendment to Increase or Decrease Scope of Services: The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification may include an adjustment to GRANTEE's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. GRANTEE shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

5. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of the CITY or to GRANTEE upon the earlier of: (i) GRANTEE filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against GRANTEE; (ii) seven calendar days prior written notice with or without cause by the CITY to GRANTEE; (iii) the CITY's non-appropriation of funds sufficient to meet its obligations hereunder during any CITY fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

(b) Immediately upon any termination or expiration of this Agreement, GRANTEE shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to the CITY any and all unspent funds and all properties and materials in the possession of GRANTEE that are owned by the CITY. Subject to the terms of this Agreement, GRANTEE shall be paid compensation for services satisfactorily performed prior to the effective date of termination. GRANTEE shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

(c) In the event of termination due to failure of GRANTEE to satisfactorily perform in accordance with the terms of this Agreement, the CITY may

withhold an amount that would otherwise be payable as an offset to, but not in excess of, the CITY's damages caused by such failure. In no event shall any payment by the CITY pursuant to this Agreement constitute a waiver by the CITY of any breach of this Agreement which may then exist on the part of the GRANTEE, nor shall such payment impair or prejudice any remedy available to the CITY with respect to the breach.

(d) Upon any breach of this Agreement by the GRANTEE, the CITY may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic, and incidental damages for the breach of the Agreement. If it is determined that the CITY improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

(e) GRANTEE shall provide the CITY with adequate written assurances of future performance, upon the Administrator's request, in the event GRANTEE fails to comply with any terms or conditions of this Agreement.

(f) GRANTEE shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of GRANTEE and without its fault or negligence such as, acts of God or the public enemy, acts of the CITY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. GRANTEE shall notify the CITY in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Administrator of the cessation of such occurrence.

6. Data Sharing; Confidentiality. GRANTEE shall fully and timely participate in data sharing with the CITY, County of Fresno, and other entities under contract with the CITY concerning COVID-19 test results and contact tracing. Notwithstanding the foregoing, the Parties to this Agreement agree to comply with the applicable sections of any appropriate statute and/or requirement to assure that:

(a) All applications and individual records related to services provided under this Agreement, including eligibility for services, enrollment, and referral shall be confidential and shall not be open to examination for any purpose not directly connected with the delivery or evaluation of such services.

(b) No person will publish or disclose, use, or permit to be published, disclosed, or used, any confidential information pertaining to applicants, participants, or students overall.

(c) Each of the parties will agree to abide by the current confidentiality provisions of respective statutes and shall share information necessary for the administration of the program including accountability. To the extent allowable and in accordance with each of the parties governing state and/or federal laws and regulations,

parties, therefore, agree to share client information necessary for provision of services and accountability.

(d) Any information deemed confidential under state or federal law provided to or developed by any of the parties in the performance of the duties described in this Agreement shall be kept confidential and shall not be made available to any individual or organization without the approval of all parties; however, the parties shall make administrative, fiscal, program and participant records available as required by law for audit purposes to assist in the performance of state/federal responsibilities. The parties understand that CITY is a public entity subject to the terms of the California Public Records Act and FOIA, and nonprivileged, nonconfidential information may be subject to disclosure.

(e) Parties shall notify remaining parties promptly of any unauthorized possession, use, knowledge or attempt thereof, of any other parties data files or other confidential information and shall promptly furnish to those parties full details of the unauthorized release of such confidential information and shall assist with the investigation or prevention of the further release of such information.

(f) All services described in this Agreement will be delivered in compliance with HIPAA.

7. Professional Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as GRANTEE represents to the CITY that GRANTEE and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said profession necessary to perform the services agreed to be done by it under this Agreement, the CITY relies upon the skill of the GRANTEE and any subcontractors to do and perform such services in a skillful manner and the GRANTEE agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by the CITY shall not operate as a release of GRANTEE or any subcontractors from said professional standards.

8. Indemnification.

To the furthest extent allowed by law, GRANTEE shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of GRANTEE, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If GRANTEE should subcontract all or any portion of the services to be performed under this Agreement, GRANTEE shall require each subcontractor to

indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

Notwithstanding the aforementioned, GRANTEE recognizes that the source of funds for the grant to be provided hereunder is the CITY's allocation from the federal Coronavirus Relief Fund, distributed pursuant to the CARES Act (42 U.S.C. 801.) To this end GRANTEE shall, without limitation, indemnify the CITY, and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages incurred by the CITY from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of GRANTEE or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement and compliance with the federal CARES Act, including specifically reimbursement to the United States Department of Treasury under 42 U.S.C. 801(f)(2) for failure to comply with the CARES Act.

This section shall survive termination or expiration of this Agreement.

9. Insurance. GRANTEE shall comply with all of the insurance requirements in **Exhibit B** to this Agreement.

10. Conflict of Interest and Non-Solicitation.

(a) Prior to the CITY's execution of this Agreement, GRANTEE shall complete a CITY of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, GRANTEE shall have the obligation and duty to immediately notify the CITY in writing of any change to the information provided by GRANTEE in such statement.

(b) GRANTEE shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of the CITY, GRANTEE shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, GRANTEE and the respective subcontractor(s) are in full compliance with all laws and regulations. GRANTEE shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, GRANTEE shall immediately notify the CITY of these facts in writing.

(c) In performing the work or services to be provided hereunder, GRANTEE shall not employ or retain the services of any person while such person either is employed by the CITY or is a member of any CITY council, commission, board, committee, or similar CITY body. This requirement may be waived in writing by the CITY Manager, if no actual or potential conflict is involved.

(d) GRANTEE represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

(e) Neither GRANTEE, nor any of GRANTEE subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the CITY Manager, in advance and in writing. GRANTEE and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the CITY Manager, in advance and in writing. Notwithstanding any approval given by the CITY Manager under this provision, GRANTEE shall remain responsible for complying with Section 10(b), above.

(f) If GRANTEE should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, GRANTEE shall include the provisions of this Section 10 in each subcontract and require its subcontractors to comply therewith.

(g) This Section shall survive expiration or termination of this Agreement.

11. CARES Act Compliance and Certification. GRANTEE shall submit only those expenditures eligible for payment from CARES Act funds pursuant to 42 U.S.C. 801(d) which requires that all expenditures:

- (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- (2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government; and
- (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

GRANTEE shall provide the CITY with an initial and final expenditure report, as defined in Section 12(c). That report, which shall be in a form agreed to by the parties and shall be accompanied by invoices and receipts that substantiate the figures on the expenditure report. Additionally, a certification signed by the Chief Executive or designee of GRANTEE certifying that the uses of the grant funds are consistent with 42 U.S.C. 801(d) shall be included with the expenditure report and substantiating documentation. GRANTEE's failure to provide a Certification may be considered a default of this Agreement. If GRANTEE is found to have made CARES-ineligible expenditures, CITY shall have the right to reclaim a dollar amount from the GRANTEE that is equal to the amount determined to be ineligible.

12. General Terms.

(a) Except as otherwise provided by law, all notices expressly required of the CITY within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the CITY Manager or designee.

(b) Records of GRANTEE expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the CITY or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. GRANTEE shall furthermore comply with all CARES Act funding requirements as set forth in 42 U.S.C 801, et seq.

In addition, all books, documents, papers, and records of GRANTEE pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit, or other action is commenced before the expiration of said time period, all records shall be retained and made available to the CITY until such action is resolved, or until the end of said time period whichever shall later occur. If GRANTEE should subcontract all or any portion of the services to be performed under this Agreement, GRANTEE shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 12(b) shall survive expiration or termination of this Agreement.

(c) GRANTEE shall submit an initial expenditure report to CITY within 21 days of the Effective Date and shall submit a final expenditure report within 45 days after termination of the Agreement. The expenditure report shall contain detailed information with an ongoing tracking of the specific uses and expenditures of any grant funds broken out by uses. Program reports shall be in a form and schedule as mutually agreed to by the parties. In addition to the expenditure and program reports, CITY may require supplemental reporting with written notice to GRANTEE. If GRANTEE fails to provide such documentation, CITY may terminate this Agreement in accordance with Section 5.

(d) Prior to execution of this Agreement by CITY, GRANTEE shall have provided evidence to the CITY that GRANTEE is licensed to perform the services called for by this Agreement (or that no license is required). If GRANTEE should subcontract all or any portion of the work or services to be performed under this Agreement, GRANTEE shall require each subcontractor to provide evidence to CITY that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

13. Nondiscrimination. To the extent required by controlling federal, state, and local law, GRANTEE shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, GRANTEE agrees as follows:

(a) GRANTEE will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

(b) GRANTEE will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. GRANTEE shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. Such requirement shall apply to GRANTEE's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) GRANTEE will, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era.

(d) GRANTEE will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of the GRANTEE's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) If GRANTEE should subcontract all or any portion of the services to be performed under this Agreement, GRANTEE shall cause each subcontractor to also comply with the requirements of this Section 13.

14. Independent Contractor.

(a) In the furnishing of the services provided for herein, GRANTEE is acting solely as an independent contractor. Neither GRANTEE, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of the CITY for any purpose. The CITY shall have no right to control or supervise or direct the manner or method by which GRANTEE shall perform its work and functions. However, the CITY shall retain the right to administer this Agreement so as to verify that GRANTEE is performing its obligations in accordance with the terms and conditions thereof.

(b) This Agreement does not evidence a partnership or joint venture between GRANTEE and the CITY. GRANTEE shall have no authority to bind the CITY absent the CITY's express written consent. Except to the extent otherwise provided in this Agreement, GRANTEE shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, GRANTEE and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to CITY employees. GRANTEE shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare, and retirement benefits. In addition, together with its other obligations under this Agreement, GRANTEE shall be solely responsible, indemnify, defend and save the CITY harmless from all matters relating to employment and tax withholding for and payment of GRANTEE's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in the CITY's employment benefits, entitlements, programs and/or funds offered employees of the CITY whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, GRANTEE may be providing services to others unrelated to the CITY or to this Agreement.

15. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

16. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.

17. Assignment.

(a) This Agreement is personal to GRANTEE and there shall be no assignment by GRANTEE of its rights or obligations under this Agreement without the prior written approval of the CITY Manager or designee. Any attempted assignment by GRANTEE, its successors or assigns, shall be null and void unless approved in writing by the CITY Manager or designee.

(b) GRANTEE hereby agrees not to assign the payment of any monies due GRANTEE from the CITY under the terms of this Agreement to any other individual(s), corporation(s), or entity(ies). The CITY retains the right to pay any and all monies due the GRANTEE directly to the GRANTEE.

18. Compliance With Law. In providing the services required under this Agreement, GRANTEE shall at all times comply with all applicable laws of the United States, including but not limited to, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), the State of California and the CITY, the CARES Act (42 U.S.C. 801 et seq.) and all other applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

19. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

20. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

21. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

22. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

23. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

24. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

25. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

26. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

29. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both the CITY and GRANTEE.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

UNITED HEALTH CENTERS OF THE
SAN JOAQUIN VALLEY,
a California nonprofit corporation

By: _____
Wilma Quan Date
City Manager, City of Fresno

By: _____

Name: _____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

Title: _____
(If corporation or LLC., Board Chair,
Pres. or Vice Pres.)

By: _____
Date
Deputy/Assistant City Attorney

By: _____

Name: _____

ATTEST:
YVONNE SPENCE, CRM MMC
City Clerk

Title: _____
(If corporation or LLC., CFO,
Treasurer, Secretary or Assistant
Secretary)

By: _____
Date
Deputy

Addresses:
CITY:
CITY of Fresno
Attention: Wilma Quan
CITY Manager
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-7000
FAX: (559) 621-7990

GRANTEE:
United Health Centers of the San
Joaquin Valley
Attention: Justin Preas
3875 W. Beechwood Ave
Fresno, CA 93722
Phone: (559) _____

- Attachments:
1. Exhibit A - Scope of Services
 2. Exhibit B - Insurance Requirements
 3. Exhibit C - Conflict of Interest Disclosure Form

EXHIBIT A

SCOPE OF SERVICES

**United Health Centers of the San Joaquin Valley (“UHC”)
And
City of Fresno (“City”)**

Statement of Work:

UHC will Provide:

COVID 19 Testing:

1. Conduct two large scale testing events at the Fresno Fair Grounds or another location agreed upon by the parties, every week commencing 12/1/2020 through 2/28/2021.
2. Conduct two smaller scale testing events per week at the request of the City Council in targeted areas and underserved communities commencing 12/1/2020 through 2/28/2021.
3. Administration and oversight of all services related to Direct Healthcare Services.
4. Provide COVID-19 testing
5. Provide COVID-19 test results
6. Management of COVID-19 related care
7. Collaborate with Community Based Organizations to link patients to COVID related resources and support services.
8. Coordination and execution of a large scale Public Awareness and Communication Campaign.
9. Assist with vaccination efforts, as may be coordinated by the City.

City will provide:

1. Contract or agreement to use the Fresno Fair Grounds for testing, if the Fairgrounds are to be used.
2. Identify communities or locations for smaller testing events as needed.
3. Participate in Public Service Announcements to promote testing events.

**Grant Agreement City of Fresno and United Health Centers.
COVID-19 Testing Services and Follow up.**

Budget

Item #	DESCRIPTION	AMOUNT (\$)
1	PPE (Personal Protective Equipment)	100,891
2	IT Support	25,000
3	Personnel:	
	3 - LVNs	44,392
	10 - Medical Assistants	103,580
	4 - Clerical	41,432
	Supervising personnel (Project Oversight)	42,705
4	Temp Employees	70,000
5	Travel (Mileage, gas, vehicle rental)	24,722
6	Equipment:	
	30 (Honda Generators @ \$1,100 each)	33,000
	40 (10x15 pop-up tents @ \$349.95 each)	13,998
	30 Heaters @ \$176 each	5,280
7	Public Awareness Campaign	95,000
	TOTAL BUDGET	600,000



Public Awareness Campaign for COVID-19 Testing in Partnership with the City of Fresno

Prepared by: Creative + Business Development Departments

Last Updated: November 17, 2020

Executive Summary

Objective

To create and foster awareness of United Health Centers conducting COVID-19 testing at the Fresno Fair Grounds. We will increase community education within the City of Fresno regarding the importance of surveillance testing and thus maintain the city open and safe.

Campaign Duration:

This is a 3-month campaign.

Project Outline

1. Message
2. Action Plan
3. Budget
4. Proposal for Outlets
5. Execution Plan
6. Evaluation Plan

Message

We have 2 messages:

1. Do you need COVID testing this week? For your convenience, United Health Centers has partnered with the City of Fresno to offer no-cost COVID-19 testing at the Fresno Fair Grounds. Together as a community we can keep our city and county open and safe. (Awareness).
2. Please visit our website or call us to pre-register (Pre-registrations)
3. Pre-registration is highly encouraged but not mandatory; no one will be turned away.

Action Plan

Use digital, print, and broadcast advertising to send out our two messages and generate pre-registrations/patients via phone and website throughout the duration of the campaign.

1. Digital Advertising: Social Media, Website, Email/Text

Social Media

#Covid19 #Wellnessforalifetime #together

Facebook, Instagram, Twitter, Youtube, and Google will be used to create engaging and measurable posts for the duration of this campaign. The main focus will be on video and animated graphics.

Facebook and Instagram Ads

We will target Fresno and the surrounding areas and continuously adjust our target audience based on ad results.

Youtube Ads

A unique audience is chosen to show video ads to those already interested in the content of the ad. 15-second video clips will be created to maximize success.

Our audience includes but is not limited to:

- People living within and surrounding the Fresno area

United Health Centers of the San Joaquin Valley

Google Ads

This platform will be used in conjunction with the other platforms. Our audience includes but is not limited to:

- Location based: People living in the Fresno Zip Codes
- Keyword based, i.e., when a patient in the Fresno zip code area searches for specific keywords related to the content of this campaign and United Health Centers

Website

<https://unitedhealthcenters.org/fresnotesting>

<https://unitedhealthcenters.org/appointment>

Throughout the site, we will encourage traffic to this Fresno testing page and appointment page by targeting specific audiences that have shown interest or might be interested in learning more.

Outlets directing to this specific landing page:

1. Each UHC Fresno location
2. News & Media Page Highlight
3. Popup on the homepage every Monday and Friday (day of the week where website is viewed the most and the day before the Saturday events)
4. UHC Highlight
5. Google, Facebook, Instagram, and Youtube Ads
6. TV Ads

Email/Text Marketing - Athena

We will send an email and a text blast at the start of the campaign through Athena that will target existing patients within Fresno and its surrounding areas.

2. Print Advertising: Flyer, Posters, Mailers, News Paper Ads

Flyers

- A specific flyer promoting this event will be distributed throughout Fresno.

Posters

- A specific poster will be posted throughout Fresno targeting busy areas (Grocery Stores, etc.)

Mailers

United Health Centers of the San Joaquin Valley

- A specific mailer promoting this event will be delivered to Fresno Zip Codes beginning with zip codes in Fresno in most need of testing opportunities (South Fresno) or the most disadvantaged neighborhoods.

News Paper Ads

- Physical large and small ads for the Fresno Bee will be created.

3. Broadcast Advertising: TV, Radio, Phone Promos

TV

We will create English and Spanish ads for the following stations:

1. Univision
2. Telemundo
3. NBC
4. ABC

Radio

We will create English and Spanish 30-second ads for the following stations:

1. La Buena
2. Q97
3. Univision Radio
4. La Preciosa
5. B95
6. Soft Rock
7. La Unika Mexicana

UHC Telephone Promo

These promos will be played during the "hold" time. At least two different promos will be rotating but the message will remain the same.

General Budget Breakdown

We will make use of 250K and divide this amount among strategically selected platforms.

TV: \$100K Total

Univision	\$40K
Telemundo	\$20K
NBC	\$20K
ABC	\$20K

Radio: \$80K Total

La Buena	\$15K
Q97	\$10K
Univision Radio	\$20K
La Preciosa	\$10K
B95	\$5K
Soft Rock	\$10K
La Unika Mexicana	\$10K

Print: \$50K Total

Social Media: \$20K Total

Proposed Outlets

3 total outlets: Digital, Broadcast, and Print

Call to Action: Please visit our website or call us to pre-register

Digital	Broadcast	Print
<p>Deliverables:</p> <ul style="list-style-type: none"> • Website Landing Page • Web Notices • Homepage Popup • Social Media Ads 	<p>Deliverables:</p> <ul style="list-style-type: none"> • TV Ads • Radio Ads • Phone Promos • Results Report 	<p>Deliverables:</p> <ul style="list-style-type: none"> • Promotional Flyer • Poster • Mailer • News Paper Ads

<ul style="list-style-type: none"> • Email/Text through Athena • Results Report 		<ul style="list-style-type: none"> • Results Report
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Execution Plan

1. All content for each outlet will be created and tailored to the specific platform and audience. *Content is always the most crucial piece in a campaign.*
2. Each deliverable will be assigned a measurable call to action component.
3. Periodic assessments are made of the state of the content that has been delivered. This assessment is crucial because it allows for precision in our content and form of delivery regarding the audience we want to reach and what they are responding to.
4. The website landing page and the appointment page will be the main points of conversion (appointments) and/or awareness. Digital, Broadcast, and print will direct to the landing page. Phone calls will also be encouraged.

Content-Type	Main Creator(s)
Digital	Creative Team + Business Development Team
Broadcast	Creative Team + Business Development Team
Print	Creative Team + Outreach
Evaluation and Reassessments	Creative Team + Quality Department + Central

Note: The entire Creative team assists in the creation of the content as seen fit.

EXHIBIT B

INSURANCE REQUIREMENTS

(a) Throughout the life of this Agreement, GRANTEE shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or designee at any time and in his/her sole discretion. If the GRANTEE is self-insured, the following requirements will outline the responsibility of the self-insured coverage. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY and STATE and each of their officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, GRANTEE fails to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to GRANTEE shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve GRANTEE of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by GRANTEE shall not be deemed to release or diminish the liability of GRANTEE, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY and STATE by GRANTEE shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by GRANTEE. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of GRANTEE, vendors, suppliers, invitees, consultants, medical professionals, subcontractors, consultants, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and

contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."

2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability including Abuse & Molestation Insurance that insures against liability arising out of the bodily injury, personal injury, including mental anguish, and third-party property damage occurring because of the wrongful or negligent acts attributable to the institution. The Abuse & Molestation coverage should protect against a wide range of potential claims, including but not limited to sexual molestation and other sexual misconducts.

MINIMUM LIMITS OF INSURANCE

GRANTEE shall procure and maintain for the duration of the contract insurance with limits of liability not less than those set forth below. However, insurance limits available to CITY and STATE and each of their officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**

- (i) \$1,000,000 per occurrence for bodily injury and property damage;
- (ii) \$1,000,000 per occurrence for personal and advertising injury;
- (iii) \$2,000,000 aggregate for products and completed operations; and,
- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **COMMERCIAL AUTOMOBILE LIABILITY:**

\$1,000,000 per accident for bodily injury and property damage.

3. **WORKERS' COMPENSATION INSURANCE** as required by the State of California with statutory limits.

4. **EMPLOYER'S LIABILITY:**

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

5. **PROFESSIONAL LIABILITY** (Abuse & Molestation):

- (i) \$2,000,000 per claim/occurrence; and,
- (ii) \$4,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event GRANTEE purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY and STATE and each of their officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

GRANTEE shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and GRANTEE shall also be responsible for payment of any self-insured retentions. Any self-insured retentions must be declared on the Certificate of Insurance, and approved by, the CITY'S Risk Manager or designee. At the option of the CITY'S Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such self-insured retentions as respects CITY and STATE or any of their officers, officials, employees, agents and volunteers; or
- (ii) GRANTEE shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

- (i) *All policies of insurance* required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty calendar days' written notice has been given to CITY, except ten days for nonpayment of premium. GRANTEE is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, GRANTEE shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, GRANTEE shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen calendar days prior to the expiration date of the expiring policy.
- (ii) The Commercial General and Automobile Liability insurance policies shall be written on an occurrence form.

- (iii) The Commercial General and Automobile Liability insurance policies shall be endorsed to name CITY and STATE and each of their officers, officials, agents, employees and volunteers as an additional insured. GRANTEE shall establish additional insured status for the CITY and STATE for all ongoing and completed operations under the Commercial General Liability policy by use of ISO Forms or an executed manuscript insurance company endorsements providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.
- (iv) The Commercial General and Automobile Liability insurance shall contain, or be endorsed to contain, that the GRANTEE'S insurance shall be primary to and require no contribution from the CITY or STATE. The Commercial General Liability policy is required to include primary and non-contributory coverage in favor of the CITY and STATE for both the ongoing and completed operations coverage. These coverages shall contain no special limitations on the scope of protection afforded to CITY and STATE and each of their officers, officials, employees, agents and volunteers. If GRANTEE maintains higher limits of liability than the minimums shown above, CITY and STATE requires and shall be entitled to coverage for the higher limits of liability maintained by GRANTEE.
- (v) Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.
- (vi) For any claims related to this Agreement, GRANTEE'S insurance coverage shall be primary insurance with respect to the CITY and STATE and each of their officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the CITY and STATE and each of their officers, officials, agents, employees and volunteers shall be excess of the GRANTEE'S insurance and shall not contribute with it.
- (vii) The Workers' Compensation insurance policy shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees and volunteers.
- (viii) The Commercial General and Automobile Liability insurance policies shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees and volunteers.

If the *Professional Liability (Abuse & Molestation) insurance policy* is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by GRANTEE.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work

or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by GRANTEE, GRANTEE must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to CITY for review.

5. These requirements shall survive expiration or termination of the Agreement.

PROVIDING OF DOCUMENTS - GRANTEE shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required herein. **All certificates and applicable endorsements are to be received by CITY's Risk Manager within a reasonable time after execution of this agreement.** All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, GRANTEE shall immediately furnish CITY with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement. All subcontractors working under the direction of GRANTEE shall also be required to provide all documents noted herein.

SUBCONTRACTORS- If GRANTEE subcontracts any or all of the services to be performed under this Agreement, GRANTEE shall be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry and shall indemnify CITY and STATE if failure to comply with this provision results in damages to the CITY or the GRANTEE.

EXHIBIT C
DISCLOSURE OF CONFLICT OF INTEREST

		YES*	NO
1	Are you currently in litigation with the CITY of Fresno or any of its agents?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the CITY of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the CITY of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
4	Are you or any of your principals, managers, or professionals, owners or investors in a business which does business with the CITY of Fresno, or in a business which is in litigation with the CITY of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
5	Are you or any of your principals, managers, or professionals, related by blood or marriage to any CITY of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

 Signature

 Date

 (Name)

 (Company)

 (Address)

 (CITY, State Zip)

Additional page(s) attached.