

**OHIO DEPARTMENT OF HEALTH  
SUBRECIPIENT AGREEMENT**

This Subrecipient Agreement ("Agreement") is between:

Ohio Department of Health ("ODH")	City of Columbus Health Department ("Subrecipient")
Bureau of Infectious Diseases, STI Prevention Program	Mysheika Roberts, MD; Health Commissioner ("Authorized Representative")
Karen Nicosia, STI and Viral Hepatitis Prevention Program Manager ("ODH Agreement Manager")	240 Parsons Avenue
246 N High Street	Columbus, Ohio 43215
Columbus, Ohio 43215	(614) 645-6426
(614) 644-1878	healthcommissioner@columbus.gov; MWROBERTS@columbus.gov
karen.nicosia@odh.ohio.gov	Vendor: OAKS #0000056198-26

AND

For the purpose of this Agreement, the term "Party" or "Parties" may be used to refer to either ODH and/or Subrecipient individually or collectively. Two (2) hardcopies of this Agreement should be signed by Subrecipient and returned along with required attachments (see §3) to ODH, ATTN: Paul Maragos, Contract Unit, 246 North High Street, Columbus, Ohio 43215, within fourteen (14) days of receipt at the above address. A copy of the executed Agreement shall be returned to the Subrecipient's Authorized Representative.

- PURPOSE & OBJECTIVE.** The purpose of the project is to enhance surveillance of resistant N. gonorrhoeae in the United States and increase state and local capacity to detect and monitor resistant gonorrhea including among important populations such as gay and bisexual men, other men who have sex with men (MSM), and women in the U.S. The contracted agency must be an existing STD clinic, an established Gonococcal Isolate Surveillance Project (GISP) site, and a local public laboratory that can implement the program strategies and meet the project period outcomes.
- EFFECTIVE DATE OF THE AGREEMENT.** This Agreement is in effect (the "Agreement Period") from or the date of execution by the Director of ODH, whichever is later ("Agreement Beginning Date") through 6/30/2021 ("Agreement Ending Date"), unless this Agreement is renewed, suspended or terminated pursuant to the provisions of this Agreement prior to the termination date. Any reference to the Agreement Period shall include any renewal term (if any).

**3. AGREEMENT FUNDING.**

3.1. Agreement Funding Source:

Department of Health and Human Services - Centers for Disease Control and Prevention

3.2. Grant Award Number:

5 NU50CK000543-02-00

3.3. CFDA Number:

93.323

3.4. Ohio Statute Authorizing Administration of the Program:

Ohio Revised Code ("O.R.C.") 3701.13 & 3701.04(A)(4)

4. ATTACHMENTS & ACKNOWLEDGEMENTS. Attachments specified in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. PLEASE READ CAREFULLY AND INITIAL EACH PARAGRAPH BELOW:

MWR 4/10/19 Subrecipient affirms that they have read and understand and agree to be bound by the Scope of Work, Deliverables & Compensation terms in §6 below, and by the Agreement Terms and Conditions in §7 below,

MWR 5/10/19 If Subrecipient is not currently a registered vendor with the State of Ohio, Subrecipient must register online using the OAKS Supplier Self-Registration module at [www.supplier.obm.ohio.gov](http://www.supplier.obm.ohio.gov);

MWR 5/10/19 Subrecipient must submit with this a budget or expense report;

MWR 6/10/19 Subrecipient certifies that it is an organization eligible to receive this grant from ODH by certifying it is either a State, Local and Indian Tribal Government, institution of higher education, non-profit organization (including faith-based, community-based, or tribal organization), or hospital;

MWR 6/10/19 If Subrecipient does not currently have an assigned Dun and Bradstreet (D&B) Universal Numbering System (DUNS) number. Subrecipient shall immediately take steps to obtain one as soon as possible;

MWR 6/10/19 Subrecipient must submit with this Agreement verification of any required licenses, registrations or other qualifications required by this Agreement or relevant Request for Proposal;

MWR 6/10/19 Subrecipient certifies it is not debarred from consideration for any state or federal government contracts and it is not subject to any unresolved finding for recovery; and

MWR 6/10/19 Effective March 28, 2019, if the Agreement Funding Source identified in §3.1. of this Agreement is any of the following listed funding sources, Subrecipient must certify that it does not perform nontherapeutic abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; nor will Subrecipient become nor is Subrecipient currently affiliated with any entity that performs or promotes nontherapeutic abortions as defined in O.R.C. §9.04:

- Violence Against Women Act;
- Breast and Cervical Cancer Mortality Prevention Act;
- Infertility prevention project;
- Minority HIV/AIDS initiative; or
- State of Ohio funds, including infant mortality reduction or infant vitality initiatives.

5. FEDERAL NOTICE OF AWARD RESTRICTIONS, DISCLAIMERS, EXCEPTIONS and/or MATERIAL BREACH. Attachments specified in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement.

- 5.1. The contracted agency must be an existing STD clinic, an established Gonococcal Isolate Surveillance Project (GISP) site, and a local public laboratory that can implement the program strategies and meet the project period outcomes.
- 5.2. The following Federal Notice of Award terms and conditions are flow down to Subrecipient and incorporated and made a part of this Agreement. For the purpose of such conditions, the term "Sub-grantee" or "Subrecipient" may be used to refer to Subrecipient and "Grantee" or "Recipient" may be used to refer to ODH:

**Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIS):**  
Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services  
Tonya M. Jenkins, Grants Management Specialist (Contractor)  
Time Solutions

Centers for Disease Control and Prevention  
Branch 1  
2939 Flowers Road, MS-TV-2  
Atlanta, GA 30341  
Email: PJO6@CDC.GOV (Include "Mandatory Grant Disclosures" in subject line)

AND

U.S. Department of Health and Human Services  
Office of the Inspector General  
ATTN: Mandatory Grant Disclosures, Intake Coordinator  
330 Independence Avenue, SW  
Cohen Building, Room 5527  
Washington, DC 20201

Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or  
Email: MandatoryGranteeDisclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

*Remainder of Page Left Intentionally Blank. Signature Page Immediately Follows.*

IN WITNESS WHEREOF, the Parties by signing below indicate their agreement to this Agreement.

SUBRECIPIENT

OHIO DEPARTMENT OF HEALTH

M. W. Roberts  
[Signature, Blue Ink Please]

\_\_\_\_\_  
Lance D. Himes, Interim Director of Health

Mystreka W Roberts Health Commissioner  
[Print Name & Title]

\_\_\_\_\_  
Date

10/2/2022  
Date

*Remainder of Page Left Intentionally Blank. Scope of Work, Deliverables & Compensation & General Terms and Conditions Immediately Follow this Page.*

6. SCOPE OF WORK, DELIVERABLES & COMPENSATION.

	<p align="center"><b>Scope of Work and/or Deliverables</b> <b>(Due Date and Compensation only noted if Applicable or Required)</b></p>	<p align="center"><b>Due Date</b></p>	<p align="center"><b>Compensation</b></p>
	<p>During the Agreement Period, Subrecipient and ODH agree that Subrecipient shall complete the following and ODH shall compensate Subrecipient as indicated:</p>		
<p>6.1.</p>	<p>Collect specimens from all anatomical sites as described in the CDC eGISP protocol, including urethral/urine, pharyngeal, rectal, and cervical specimens. Specimens will be cultured, assigned identifiers, frozen, and shipped per CDC eGISP protocol. Isolates associated with positive gonorrhea NAAT results will be shipped monthly to the assigned laboratory in the CDC supported Antibiotic Resistance Laboratory Network (ARLN) for antimicrobial susceptibility testing. Line-listed de-identified demographic and clinical data as defined by the CDC eGISP protocol will be collected by the Subrecipient and electronically submitted to CDC following standardized protocols. Subrecipient will identify and maintain records of all urethral, pharyngeal, rectal, and cervical isolates that demonstrate bacterial growth by culture consistent with <i>N. gonorrhoeae</i> (positive culture). Monthly, \$2,700, not to exceed \$24,300.00.</p>	<p align="center">Monthly, Throughout Agreement Period</p>	<p align="center">\$24,300.00</p>
<p>6.2.</p>	<p>Ship monthly all isolates from discordant urethritis cases that are presumed <i>N. meningitidis</i> to the CDC Meningitis Branch Laboratory in Atlanta, Georgia for antibiotic susceptibility testing, confirmatory identification, and molecular characterization (including whole genome sequencing). Line-listed de-identified demographic and clinical data elements will be collected and electronically submitted to CDC following standardized protocols. Subrecipient will continue to participate in the enhanced <i>N. meningitidis</i> surveillance project, following procedures as developed through the Epidemiology and Laboratory Capacity R2 project. Monthly, \$2,000.00 per month, not to exceed \$18,000.00.</p>	<p align="center">Monthly, Throughout Agreement Period</p>	<p align="center">\$18,000.00</p>
<p>6.3.</p>	<p>Report monthly to ODH on all measures as stated in the CDC eGISP protocols. In addition, such reports shall include data from the ongoing enhanced <i>N. meningitidis</i> surveillance project in which isolates are sent to CDC, men testing positive for <i>N. meningitidis</i> are engaged in partner services, and contact tracing takes place. Monthly reports shall include aggregate data from previous months. The report in July 2019 shall reflect aggregate data for the Agreement term. Monthly, \$362.22 per report, not to exceed \$3,259.98.</p>	<p align="center">Monthly, Throughout Agreement Period</p>	<p align="center">\$3,259.98</p>
<p><b>TOTAL AGREEMENT AMOUNT</b></p>			<p align="center"><b>Not to Exceed</b> <b>\$45,559.98</b></p>

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Intentionally Blank. Terms & Conditions Immediately Follow this Page.*

7. AGREEMENT TERMS AND CONDITIONS.

7.1. Mutual Promises & Covenants. In consideration of the mutual promises expressed in this Agreement and intending to be legally bound, Subrecipient agrees to perform, and ODH agrees to pay Subrecipient, in accordance with the terms of this Agreement.

7.2. Scope of Work, Deliverables, and Compensation. Subrecipient shall provide work, services, products and deliverables in the time and manner and for the compensation specified in §6 and any attachment specified or incorporated into this Agreement.

7.2.1. Compensation. In consideration of the Scope of Work and Deliverables specified in §6, ODH agrees to pay the Compensation as set forth in §6 for a total not to exceed the Total Agreement Amount. ODH will compensate Subrecipient upon the successful completion of each deliverable, in accordance with §6 of this Agreement.

7.2.1.1. Indirect Rate. ODH must budget for and pay Subrecipient its full federally-negotiated Facilities and Administrative Costs ("F&A") rate on the entire amount of the subaward (unless specifically excepted in the federal award notice). If Subrecipient has no negotiated rate, 10% of the subaward's Modified Total Direct Cost must be paid as the F&A rate, unless Subrecipient is able to direct charge 100% of their costs and has no indirect costs.

7.2.2. Total Agreement Amount. The Total Agreement Amount, as indicated in §6, includes the cost for all services, travel, or any other expenses that Subrecipient may incur as a result of Subrecipient's performance of this Agreement.

7.2.2.1. In the event that §6 specifically allows ODH to reimburse Subrecipient for travel and other related expenses, ODH will reimburse Subrecipient for those expenses in accordance with this section. Travel and travel-related expenses must be pre-approved by Agreement Manager in advance of travel and may not exceed the amounts specified for the State Fiscal Year. Subrecipient may invoice ODH for reimbursement of travel and travel-related expenses no later than thirty days after the travel occurred. Subrecipient must invoice travel expenses separate from invoices for services and work. Reimbursement for authorized travel and other related expenses shall be limited to actual and necessary expenses as specified in the O.R.C. 126.31 and O.R.C. 126.32 and the provisions of the Ohio Administrative Code ("O.A.C.") 126-1-02. Subrecipient shall submit all claims/travel invoices to the Agreement Manager for approval prior to submitting a claim for reimbursement. ODH will not reimburse Subrecipient for any other expenses except as specifically provided in this Agreement. For the purpose of determining allowable travel expenses, Subrecipient's headquarters shall be Franklin County, Ohio.

7.2.2.2. Subrecipient shall not submit claims for expenses which do not meet the requirements specified or directly related to work in §6.

7.2.3. Subrecipient shall monitor the work under this Agreement and shall not accept an assignment under this Agreement if it will cause or is reasonably likely to cause the Compensation specified in §6 to exceed the Total Agreement Amount for the Agreement Period.

7.2.4. Subrecipient waives the interest provisions of O.R.C. 126.30.

7.2.5. Subject to the provisions of O.R.C. 126.07 and O.R.C. 131.33, which shall at all times govern this Agreement, ODH represents that it intends to maintain this Agreement for the full Agreement Period set forth in this Agreement and has no reason to believe that it will not have sufficient funds to enable it to make all payments due. ODH further represents that it will use best efforts to obtain the appropriation of any necessary funds during the Agreement Period.

7.2.6. Funds Availability. Subrecipient understands and agrees that this Agreement is contingent upon the availability of lawful appropriations by the Ohio General Assembly and/or if applicable another Agreement Funding Source. If the Ohio General Assembly or other Agreement Funding Source fails at any time to continue funding ODH for the Compensation specified in this Agreement, this Agreement is terminated as of the date funding expires without further obligation of ODH, State of Ohio, or any other Agreement Funding Source.

7.2.7. ODH will not compensate Subrecipient for any work performed prior to receipt of written notification from the ODH Agreement Manager that the requirements of O.R.C. 126.07 and, if applicable, O.R.C. 127.16 have been met ODH will not compensate Subrecipient for any work performed after the Agreement Ending Date, as applicable.

- 7.2.8. Invoices. Subrecipient shall invoice ODH in accordance with §6 for work or services Subrecipient provides. An itemized statement listing the services provided, the dates services were provided, and the amount of payment due shall accompany the invoice. Invoices shall be sent to ODH, ATTN: Accounts Payable, P.O. Box 118, Columbus, Ohio 43216-0118. ODH will reimburse Subrecipient within thirty (30) days of receipt of a valid invoice for the amount of payment due pursuant to O.A.C. 126-3-01. ODH shall return any invalid or incomplete invoice to Subrecipient within fifteen (15) days after ODH receives the invoice. An explanation will accompany the invoice that states the reason for return and any information needed to correct the invoice. Final invoices for services provided under this Agreement shall be submitted by Subrecipient no later than thirty (30) days after the end of the Agreement Period.
- 7.2.8.1. Electronic Commerce Program. The State of Ohio is an active participant in the E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the Subrecipient by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Subrecipient is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio. Information regarding E-Commerce is available on the Office of Budget and Management's website at [www.supplier.obm.ohio.gov](http://www.supplier.obm.ohio.gov).
- 7.2.9. Subrecipient shall furnish its own support staff and services as necessary for the satisfactory performance of this Agreement. Unless otherwise specified in this Agreement, ODH will not provide any staff, services, or material to Subrecipient for the purpose of assisting Subrecipient's performance.
- 7.2.10. ODH may, from time to time as it deems appropriate, communicate specific instructions and requests to Subrecipient concerning the performance of the work described in this Agreement. Upon such notice and within ten (10) days after receipt of instructions, Subrecipient shall comply with such instructions and fulfill such requests to the satisfaction of ODH. It is expressly understood by the Parties that these instructions and requests are for the sole purpose of ensuring satisfactory completion of the work described in this Agreement and are not intended to amend or alter this Agreement or any part thereof. The Agreement Manager will communicate all such instructions and requests to Subrecipient.
- 7.2.11. If the Agreement Funding Source identified in §3.1. of this Agreement is any of the following listed funding sources, Subrecipient certifies that Subrecipient does not perform nontherapeutic abortions; promote nontherapeutic abortions; contract with any entity that performs or promotes nontherapeutic abortions; is or will become affiliated with any entity that performs or promotes nontherapeutic abortions as defined in O.R.C. §9.04:
- 7.2.11.1. Violence Against Women Act;
  - 7.2.11.2. Breast and Cervical Cancer Mortality Prevention Act;
  - 7.2.11.3. Infertility prevention project;
  - 7.2.11.4. Minority HIV/AIDS initiative; and/or
  - 7.2.11.5. State of Ohio funds, including infant mortality reduction or infant vitality initiatives.
- Any violation or failure to comply with this section shall be treated as a material breach of this Agreement.

7.3. Time of Performance & Amendments.

- 7.3.1. Agreement Period; Extension. Upon approval by ODH and, if required, the Controlling Board, this Agreement shall be effective on the Agreement Beginning Date and shall remain in effect until the Agreement Ending Date. Upon mutual consent of both parties, this Agreement may be renewed or extended past the Agreement Ending Date, subject to the same terms and conditions of this Agreement and subject to any federal and state directives, regulations, laws, Request for Quote or Request for Proposals relating to the subject matter of this Agreement. Any extensions or renewals are subject to sections 7.2.6 and 7.5.3.
- 7.3.1.1. Biennium Year. In the event that the term of this Agreement Period spans the State of Ohio biennium ending on June 30<sup>th</sup> of an odd-numbered year, e.g. June 30, 2015, then this Agreement will terminate on the last day of that biennium. At that time, ODH may unilaterally extend the Agreement by giving Subrecipient written notice. Until such notice is given, Subrecipient is subject to §7.3.3 below.
- 7.3.2. Amendments. This writing constitutes the entire agreement between the Parties with respect to all matters herein. This Agreement may be amended only by a writing signed by both Parties. However, it is agreed by the Parties that any amendments to laws or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing written amendments. Any written

amendments to this Agreement shall be prospective in nature. When a new or different term or condition is added, additional consideration is not necessary to bind the Parties.

- 7.3.3. Pursuant to O.R.C. 126.07, this Agreement is not valid nor enforceable in any fiscal year unless the director of budget and management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations, in an amount at least equal to the current fiscal year funding specified for each fiscal year that comprises the Total Agreement Amount. Subrecipient shall not perform nor charge ODH for any work performed by Subrecipient in the time period prior to receiving written notification from ODH that the requirements of O.R.C. 126.07 and, if applicable, O.R.C. 127.16 have been met. Subrecipient shall neither perform work nor submit an invoice for payment for any Agreement performance after the Agreement Ending Date.
- 7.4. Suspension and Termination. ODH may suspend or terminate this Agreement for any reason thirty (30) days after delivery of written notice to Subrecipient. ODH may suspend or terminate this Agreement immediately after delivery of written notice to Subrecipient if ODH (i) discovers any illegal conduct on the part of Subrecipient; (ii) discovers any violation of §7.7 of this Agreement regarding Conflict of Interest and Ethics Laws; (iii) discovers any violation of §7.13 regarding a Drug Free Workplace; (iv) discovers any violation of the funding restriction specified in §7.2.11; (v) is subject to a loss of funding as specified in §7.2.6; (vi) discovers that Subrecipient or any of its subcontractors has performed any services under this Agreement in §7.12 regarding Prohibition of the Expenditure of Public Funds for Offshore Services; or (vii) discovers or is notified that a petition in bankruptcy or similar proceeding has been filed by or against Subrecipient. If at any time during the Agreement Period a bankruptcy or similar proceeding has been filed by or against Subrecipient, Subrecipient shall immediately notify ODH of the filing.
- 7.4.1. Subrecipient to Cease Work and Other Agreement Activities. Subrecipient, upon effective date of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate any subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report, as of the date of receipt of notice of suspension or termination describing the status of all work under this Agreement, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODH may require.
- 7.4.2. Determining Compensation after Agreement Suspension or Termination. Except in the instances of material breach or default as indicated in §7.5, Subrecipient shall be entitled to compensation in the event of suspension or termination under this Agreement, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by ODH based on the compensation set forth in §6 and §7.2, less any funds previously paid by or on behalf of ODH. In the case of services for which Subrecipient's compensation is based upon a fixed fee per deliverable, compensation shall be based on a reasonable percentage of the total services performed, as determined by ODH, less any funds previously paid by or on behalf of ODH. ODH shall not be liable for any further claims, and the claims submitted by Subrecipient shall not exceed the total amount of compensation allowed by this Agreement.
- 7.5. Breach or Default.
- 7.5.1. Material Breach. Upon a Material Breach of the Agreement, as designated in §4, §7.2.11 and §7.12, ODH may unilaterally terminate this Agreement without compensation to Subrecipient as a material breach is understood by the Parties to be so significant that it has destroyed the value of the Agreement and, due to the nature of the services that ODH offers the State of Ohio, a Material Breach would undermine the sole purpose of the Agreement.
- 7.5.2. Upon breach or default by Subrecipient of any of the provisions, obligations or duties provided for in this Agreement, ODH may exercise all administrative, contractual, equitable or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of subsequent occurrences, and ODH retains the right to exercise all remedies provided for in this Agreement.
- 7.5.3. If ODH or Subrecipient fail to perform an obligation or obligations under this Agreement and thereafter such failure is waived by the other party; such waiver shall be limited to the particular failure so waived and shall not be deemed to waive other failures hereunder. Waiver by ODH shall not be effective unless it is in writing and signed by the Director of Health or his or her designee, except that Agreement Manager may agree in writing to non-substantial changes to §6, such as changes in form, format, deadlines, or other minimal changes that do not diminish the value of the specified work or deliverable.
- 7.5.4. A breach or default based upon Subrecipient's failure to comply with §7.12 is subject to that section with regard to Agreement termination, sanctions, and damages.



7.6. Independent Subrecipient. Subrecipient acknowledges and agrees any individual providing personal services under this agreement is not a public employee (for purposes of O.R.C. Chapter 145) solely on the basis of this Agreement. No agency, employment, joint venture or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement. Inasmuch as ODH is interested in Subrecipient's end product, ODH does not control the manner in which Subrecipient performs this Agreement. ODH is not liable for the workers' compensation or unemployment compensation payments required by O.R.C. Chapters 4123 and 4141, respectively. In addition, Subrecipient assumes responsibility for tax liabilities that result from compensation paid to Subrecipient by ODH. ODH will report any payment made under this Agreement to the Internal Revenue Service on Form 1099. Additionally, no provision contained in this Agreement shall be construed as entitling Subrecipient to participate in hospital plans, medical plans, sick leave benefits, vacation, and other benefits available to employees of ODH or to become a member of the Public Employees Retirement System (O.R.C. Chapter 145).

7.7. Conflict of Interest and Ethics Laws.

7.7.1. Neither Subrecipient nor any officer, member or employee of Subrecipient shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.

7.7.2. Subrecipient hereby covenants that neither Subrecipient, nor any officer, member, or employee of Subrecipient, have any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this Agreement.

7.7.3. Subrecipient shall not promise or give to any ODH employee anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. Subrecipient shall not solicit an ODH employee to violate any ODH rule or policy relating to the conduct of contracting Parties or to violate O.R.C. 102.03 to 102.04 or O.R.C. 2921.42.

7.7.4. Subrecipient hereby covenants that Subrecipient and any officer, member or employee of Subrecipient are in compliance with O.R.C. 102.04 and that if Subrecipient is required to file a statement pursuant to O.R.C. 102.04(D)(2), such statement has been filed with the ODH General Counsel in addition to any other required filings.

7.7.5. Subrecipient hereby certifies compliance with the executive agency lobbying requirements of O.R.C. 121.60 to 121.69.

7.7.6. Subrecipient hereby certifies and affirms that, as applicable to Subrecipient, no party listed in Division (I) or (J) of O.R.C. 3517.13 or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of \$1,000.00 (One Thousand Dollars) to the Governor or to his campaign committees. If it is determined that Subrecipient's certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, Subrecipient shall return to ODH all monies paid to Subrecipient under this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

7.8. Nondiscrimination and Equal Employment Opportunity.

7.8.1. In carrying out this Agreement, Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, gender, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin or ancestry. Subrecipient shall comply with all applicable State of Ohio and Federal laws relating to nondiscrimination and equal employment opportunity as those laws may be amended from time to time, including but not limited to the following:

7.8.1.1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;

7.8.1.2. Title VII of the Civil Rights Act of 1991 (P.L. 102-166) which prohibits discrimination on the basis of race, color or religion, national origin and sexual orientation in employment;

7.8.1.3. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency ("LEP"), which requires reasonable steps to ensure that LEP persons have meaningful access to programs (see [www.lep.gov](http://www.lep.gov)), and Health and Human Services ("HHS") implementing regulations at 45 CFR part 80;

- 7.8.1.4. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, and HHS implementing regulations at 45 CFR part 86;
  - 7.8.1.5. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps in the provision of benefits or services as well as employment, and the HHS implementing regulations are codified at 45 CFR parts 84 and 85;
  - 7.8.1.6. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age and the HHS implementing regulations codified at 45 CFR part 91;
  - 7.8.1.7. If grant funding is from the U.S. Department of Justice ("DOJ"), subrecipients must also comply with the following laws and regulations which prohibit discrimination on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability in the provision of services and employment practices:
    - 7.8.1.7.1. The nondiscrimination provision of the Violence Against Women Act of 1994, as amended (42 U.S.C. § 13925(b)(13));
    - 7.8.1.7.2. 28 C.F.R. pt. 42, subpt. C (the DOJ regulations implementing Title VI of the Civil Rights Act of 1964);
    - 7.8.1.7.3. 28 C.F.R. pt. 54 (the DOJ regulations implementing Title IX of the Education Amendments of 1972);
    - 7.8.1.7.4. 28 C.F.R. pt. 42, subpt. G (the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973); 28 C.F.R. pt. 42, subpt. I (the DOJ regulations implementing the Age Discrimination Act of 1975);
    - 7.8.1.7.5. 28 C.F.R. pt. 38 (the DOJ regulations on the Equal Treatment for Faith-Based Organizations);
    - 7.8.1.7.6. Ex. Order No. 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations); and
    - 7.8.1.7.7. Ex. Order No. 13559 (Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations).
  - 7.8.1.8. Prohibitions against retaliation against individuals for taking action or participating in an action to secure rights provided in State and Federal laws relating to nondiscrimination.
- 7.9. "Sweatshop Free" Certification. Subrecipient hereby certifies that all facilities used for the production of supplies or performance of services offered in this Agreement is in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by Subrecipient in furnishing the supplies or services pursuant to this Agreement. If it is determined that Subrecipient's certification of this requirement is false or misleading, then Subrecipient understands that it shall be grounds for the termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.
- 7.10. Records, Documents and Information. All records, documents, writings or other information produced or used by Subrecipient in the performance of this Agreement shall be treated according to the following terms:
- 7.10.1. All ODH information which, under the laws of the State of Ohio, is classified as public or private will be treated as such by Subrecipient. Where there is a question as to whether information is public or private, ODH shall make the final determination. Subrecipient shall not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. Subrecipient agrees to be bound by the same standards of confidentiality that apply to the employees of ODH and the State of Ohio. If at any time during the Agreement period a proceeding has been filed by or against Subrecipient which would compel disclosure of private information under this Agreement, Subrecipient shall immediately notify ODH of the filing. The terms of this section shall be included in any subcontracts executed by Subrecipient for work under this Agreement.
  - 7.10.2. Pursuant to Section 149.43 of the Ohio Revised Code, all proprietary information of Subrecipient shall be held to be strictly confidential by ODH. Proprietary information is information which, if made public, would put Subrecipient at a disadvantage in the market place and trade of which Subrecipient is a part. Subrecipient is responsible for notifying ODH of the nature of the information prior to its release to ODH.

ODH reserves the right to require reasonable evidence of Subrecipient's assertion of the proprietary nature of any information to be provided.

- 7.10.3. All records relating to costs, work performed and supporting documentation for invoices submitted to ODH by Subrecipient shall be retained and made available by Subrecipient for audit by the State of Ohio (including, but not limited to, ODH, the Auditor of the State of Ohio, the Ohio Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three years after payment for work performed under this Agreement. If an audit, litigation, or other action is initiated during this time period, Subrecipient shall retain such records until the action is concluded and all issues resolved or the three years end, whichever is later.
- 7.11. Disclosure of Personal Health Information. Subrecipient hereby agrees that the information provided or made available by ODH shall not be used or disclosed other than as permitted or required by this Agreement or as required by law. Subrecipient will establish and maintain appropriate safeguards to prevent any use or disclosure of the information, other than as provided for by this Agreement. Subrecipient shall comply with 45 C.F.R.164.504(e)(2)(ii). Subrecipient shall immediately report to ODH any discovery of use or disclosure of information not provided for or allowed by the Agreement. Subrecipient hereby agrees that anytime information is provided or made available to any sub-Subrecipient or agent, Subrecipient must enter into a subcontract with the sub-Subrecipient or agent that contains the same terms, conditions, and restrictions on the use and disclosure of information as contained in this Agreement. Subrecipient must obtain ODH approval prior to entering into such agreements. Further, Subrecipient agrees to make available and provide right of access to an individual of their protected health information when that protected health information is obtained in the performance of Subrecipient's obligations under this Agreement.
- 7.12. Prohibition of the Expenditure of Public Funds for Offshore Services. Subrecipient affirms and agrees that Subrecipient and any of its subcontractors shall perform no services required to implement the project or program under this Agreement outside the United States, nor allow State of Ohio data to be sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside (located) of the United States; for which funds will be used to pay or reimburse the cost of such services or for which the cost of such services will be counted as match or cost share specifically required as a condition to the disbursement of the funds under this Agreement. Notwithstanding any other terms of this Agreement, ODH reserves the right to recover any funds paid or reimbursed for services the Subrecipient performs outside of the United States for which it did not receive a waiver. The Subrecipient must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Subrecipient understands and will meet the requirements of the above prohibition. The Affirmation and Disclosure Form is attached hereto as Attachment A. During the performance of this Agreement, the Subrecipient must not change the location(s) disclosed on the Affirmation and Disclosure Form, unless a duly signed waiver has been attained to perform the services outside the United States. Subrecipient agrees to immediately notify ODH of any change or shift in the location(s) of services performed by Subrecipient or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that is outside of the United States.
- 7.12.1. Termination, Sanction, Damages. If Subrecipient or any of its subcontractors perform services under this Agreement outside of the United States or State of Ohio data is sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside the United States, the performance of such services shall be treated as a material breach of the Agreement. ODH is not obligated to pay and shall not pay for such services. If Subrecipient or any of its subcontractors perform any such services, Subrecipient shall immediately return to ODH all funds paid for those services. ODH may also recover from Subrecipient all costs associated with any corrective action ODH may undertake, including but not limited to an audit or a risk analysis, as a result of Subrecipient performing services outside the United States.
- 7.12.2. ODH may, at any time after the breach, terminate the Agreement, upon written notice to Subrecipient. ODH may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.
- 7.12.3. If ODH determines that actual and direct damages are uncertain or difficult to ascertain, ODH in its sole discretion may recover a payment of liquidated damages in the amount of % of the value of the Agreement.
- 7.12.4. ODH, in its sole discretion, may provide written notice to Subrecipient of a breach and permit Subrecipient to cure the breach. Such cure period shall be no longer than fourteen (14) calendar days. During the cure period, ODH may buy substitute services from a third party and recover from Subrecipient any costs associated with acquiring those substitute services.

- 7.12.5. Notwithstanding ODH permitting a period of time to cure the breach or Subrecipient's cure of the breach, ODH does not waive any of its rights and remedies provided ODH in this Agreement, including but not limited to recovery of funds paid for services Subrecipient performed outside of the United States, costs associated with corrective action, or liquidated damages.
- 7.13. Drug Free Workplace. Subrecipient shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug free workplace. Subrecipient shall make a good faith effort to ensure that all employees of Subrecipient do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county, or municipal property.
- 7.14. Security & Safety Rules. When using or possessing ODH data or accessing State of Ohio networks and systems, the Subrecipient, its employees, subcontractors and agents must comply with all applicable state rules, policies, and regulations regarding state-provided IT resources, data security and integrity. When on any property owned or controlled by the State of Ohio, the Subrecipient must comply with all security and safety rules, regulations, and policies applicable to people on those premises.
- 7.15. Compliance.
- 7.15.1. Subrecipient affirmatively represents and warrants to ODH that it is not subject to a finding for recovery under O.R.C. 9.24 or that it has taken the appropriate remedial steps required under O.R.C. 9.24 or otherwise qualifies under that section. Subrecipient further affirmatively represents and warrants to ODH that it is not debarred or suspended from entering into state of Ohio contracts pursuant to O.R.C. 125.25 and is not subject to exclusion, disqualification or ineligibility as defined in 2 C.F.R. 180.110. Subrecipient agrees that if this representation and warranty is deemed false, the Agreement will be void *ab initio* as between the Parties to this Agreement, and any funds paid by ODH hereunder shall be immediately repaid to ODH, or an action for recovery may be immediately commenced by ODH for the recovery of said funds.
- 7.15.2. Subrecipient certifies that Subrecipient is not federally debarred from participating in government contracts funded by federal money as described in 2 C.F.R. 180.220. If at any time during the contractual period Subrecipient is federally debarred from participating in government contracts funded by federal money, for whatever reason, Subrecipient shall immediately notify ODH of the debarment.
- 7.15.3. Subrecipient certifies that all approvals, licenses, registrations or other qualifications necessary to conduct business where the services are performed have been obtained and are operative. If at any time during the contractual period Subrecipient becomes disqualified from conducting business in Ohio, for whatever reason, Subrecipient shall immediately notify ODH of the disqualification.
- 7.15.4. Subrecipient certifies that it is in compliance and will remain in compliance throughout the duration of this Agreement with all other applicable federal and state laws, regulations, rules and Executive Orders and will require the same certification from its subgrantees or subcontractors.
- 7.16. Audit Exceptions.
- 7.16.1. ODH shall be responsible for receiving, replying to, and arranging compliance with any audit exception(s) found as a result of any state or federal audit of this Agreement as it pertains to federal or ODH funding of the Agreement. ODH shall promptly notify Subrecipient of any adverse findings which allegedly are the fault of Subrecipient. Upon receipt of notification by ODH, Subrecipient shall fully cooperate with ODH and timely prepare and send to ODH its written response to the audit exception(s).
- 7.16.2. The Parties shall be liable for any audit exception(s) that result(s) solely from their own acts or omissions in the performance of this Agreement. In the event that any audit exception(s) result(s) from the acts or omissions of both Subrecipient and ODH, the financial liability for the audit exception(s) shall be shared by the Parties in proportion to their relative fault.
- 7.16.3. For the purpose of this section, the term "audit exception" shall include federal disallowance and deferrals.
- 7.17. Trafficking Victims Act. In carrying out this Agreement, Subrecipient, its employees, subcontractors and their employees shall comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC 7104); and is now located at 2 CFR Part 175 during the term of this Agreement. Subrecipient must include this provision in its contracts and subcontracts under this Agreement. Subrecipient must inform ODH immediately of any information regarding violation of the foregoing. Subrecipient understands that its failure to comply with this provision may subject ODH to loss of federal funds. Subrecipient agrees to compensate ODH for any such funds lost due to its failure to comply with this condition, or the failure of its subcontractors to comply with this condition.

- 7.18. Limitation of Liability. Subrecipient agrees to accept and be responsible for the actions or omissions of its agents, officers, and employees arising out of this Agreement, and nothing in this Agreement shall be interpreted or construed to place any responsibility for professional acts or omissions onto ODH; and ODH agrees to accept and be responsible for the actions or omissions of its agents, officers, and employees arising out of this Agreement, and nothing in this Agreement shall be interpreted or construed to place any such responsibility on the Subrecipient. ODH's liability for damages, whether in contract or in tort, shall not exceed the Total Agreement Amount or the amount of direct damages incurred by Subrecipient, whichever is less, and is the Subrecipient's sole and exclusive remedy for ODH's failure to perform its obligations under this Agreement. In no event shall ODH be liable for any indirect or consequential damages, including loss of profit, even if ODH knew or should have known of the possibility of such damages. Neither party is responsible to the other party for nonperformance or delay in performance of the terms of this Agreement due to acts of God, wars, riots, strikes, or other causes beyond the control of the Parties.
- 7.19. Insurance. Subrecipient will provide, at its own expense, Workers' Compensation insurance, as required by Ohio law or the laws of any other state where work under this Agreement will be performed. Subrecipient may be required to show proof of insurance upon request by ODH. Subrecipient also will provide for its employees performing work under this Agreement employer's liability insurance, and personal injury, bodily injury, and property damage liability insurance, including automobile coverage with personal injury and bodily injury coverage in the amount of at least \$100,000.00 per person, \$300,000.00 per occurrence. In lieu of providing the policies of insurance in the amounts specified in this section, Subrecipient instead may elect to self-insure such risk in accordance with the laws of this state, based upon a good-faith analysis of the potential liability as it relates to the work to be performed under this Agreement, provided that Subrecipient is one of the following:
- 7.19.1. A "state institution of higher education" as defined in O.R.C. 3345.12(A)(1), a community college established under O.R.C. Chapter 3354, a state community college established under O.R.C. Chapter 3358, a university branch established under O.R.C. Chapter 3355, or technical college established under O.R.C. Chapter 3357;
- 7.19.2. A "state agency", which means a department, bureau, board, commission, office, agency, institution or other organized body or instrumentality established by the constitution and laws of the state of Ohio for the exercise of any function of state government; or
- 7.19.3. A "political subdivision" of this state, which means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.
- 7.20. Rights in Deliverables, Data and Copyrights. Any intellectual property or copyrightable materials produced specifically for and as a deliverable under the terms of this Agreement, including any documents, data, photographs and negatives, electronic reports, records, software, source code, or other media, shall become the property of ODH, which shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. This section does not apply to any preexisting materials owned by Subrecipient. Subrecipient shall not obtain copyright, patent, or other proprietary protection for the Work or Deliverables under this Agreement. ODH grants Subrecipient an unlimited license to use work and materials produced by Subrecipient under this Agreement, including the right to publish the results of any work performed under this Agreement. In the event that the Agreement Funding Source is federal funding, in whole or in part, such license is subject to the royalty-free, non-exclusive and irrevocable license to such material retained by the United States government. Further, the work must state: "This publication was made possible by Grant Number from . Its contents are solely the responsibility of the authors and do not necessarily represent the official views of ." Subrecipient shall not include in any Deliverable or Work any copyrighted matter, unless the copyright owner gives prior written approval to use such copyrighted matter.
- 7.21. Assignment. Subrecipient will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of ODH. Any assignment or delegation not consented to may be deemed void by the ODH.
- 7.22. Attachments. Attachments and documents referenced in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms.
- 7.23. Attachments. Attachments and documents referenced in this Agreement are made a part hereof, and are incorporated as terms and conditions of this Agreement. In the event of a conflict of terms, the terms and conditions of this Agreement shall take precedence over any conflicting terms.

- 7.24. Governing Law. This Agreement is governed, construed and enforced in accordance with the laws of the State of Ohio. Further, the Ohio courts shall have jurisdiction over the subject matter and the Parties hereto in connection with disputes concerning validity and enforcement of this Agreement.
- 7.25. Severability. If any portion of this Agreement is found to be unenforceable by operation of statute or by administrative or judicial decision, the enforceability of the balance of this Agreement shall not be affected thereby, provided that the absence of the unenforceable provision does not render impossible the performance of the remainder of this Agreement.
- 7.26. Headings. The headings in this Agreement are for convenience only and will not affect the interpretation of any of the Agreement terms and conditions.
- 7.27. Survival. Except as expressly stated otherwise in this Agreement, all sections herein relating to payment, confidentiality, license and ownership, liability, record retention, audit, publicity, conflicts of interest and ethics, warranties and limitations on damages shall survive the termination or expiration of this Agreement.
- 7.28. Notices.
- 7.28.1. Form of Notice. All notices, requests, claims, demands and other communications between the Parties shall be in writing.
- 7.28.2. Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address of the Party specified in this Agreement as "ODH Agreement Manager" or "Subrecipient's Authorized Representative" or such other address as either Party may specify in writing. The Parties acknowledge that change in authorized representatives and their addresses are not substantive and a change shall be recognized with proper Notice.
- 7.28.3. Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the fifth (5th) day following mailing, whichever occurs first.
- 7.29. OMB Omni-Circular. If applicable, Subrecipient must meet the requirements and comply with the federal Office of Management and Budget (OMB) Omni-Circular, 2 CFR Part 200.

*Remainder of Page Left Intentionally Blank. Attachment(s) Immediately Follow.*

ATTACHMENT A

AFFIRMATION AND DISCLOSURE FORM

By the signature affixed hereto, the Contractor affirms and understands that if awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States, nor allow State data to be sent, taken, accessed, tested, maintained, backed-up, stored or made available remotely (located) outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed and where data is located in the spaces provided below or by attachment. Failure to provide this information may result in no award. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

240 Parsons Avenue  
(Address)

Columbus, OH 43215  
(City, State, Zip)

Name/Principal location of business of subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

240 Parsons Avenue  
(Address)

Columbus, OH 43215  
(City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)



3. Location where state data will be located, by Contractor:

240 Parsons Avenue  
(Address)

Columbus, OH 43215  
(Address, City, State, Zip)

Name/Location(s) where state data will be located by subcontractor(s):

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure Form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By:   
Contractor

Print Name: Mystereka W. Roberts

Title: Health Commissioner

Date: 10/2/2020