

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** December 5, 2022

**SUBJECT:** Bid Award for Purchase of Medical Testing Machine

**PRESENTER:** Steve Smith, Health Director

**ATTACHMENTS:**

- 1) Publishers Affidavit
- 2) McKesson Medical Bid Proposal
- 3) Bid Tabulation

#### **SUMMARY OF REQUEST:**

The Board is requested to approve the low bid and authorize the Health Department to proceed with the purchase of a medical testing machine inclusive of testing supplies. Bidding was conducted between August 10 and August 26, 2022. The bidder with the lowest overall cost was McKesson Medical-Surgical Government Solutions, LLC for a total price of \$84,337.50.

This purchase is funded with federal grant funds via the Epidemiology/Communicable Disease Branch of the Department of Public Health.

#### **BOARD ACTION REQUESTED:**

The Board is requested to accept the low bid from McKesson Medical-Surgical Government Solutions, LLC for \$84,337.50 and authorize the Health Department to proceed with the purchase.

#### ***Suggested Motion:***

***I move the Henderson County Board of Commissioners to accept the low bid from McKesson Medical-Surgical Government Solutions, LLC for the purchase of a medical testing machine inclusive of testing supplies. and authorize the Health Department to proceed with the purchase.***



P.O. Box 1276  
Hendersonville, NC 28793  
Phone: (828) 698-0407  
E-mail: [legals@hendersonvillelightning.com](mailto:legals@hendersonvillelightning.com)  
Web: [hendersonvillelightning.com](http://hendersonvillelightning.com)

August 10, 2022

Doug Guffey

Purchasing Agent  
Historic Courthouse Annex  
113 N. Main Street  
Hendersonville, NC 28792

RFP: Medical Testing Machine

I, William L. Moss, affirming the following under the penalties of perjury state:

I am editor and publisher of the *Hendersonville Lightning*, a newspaper published, issued and entered as periodical mail in the City of Hendersonville, County of Henderson and State of North Carolina. I hereby certify that the advertisement annexed hereto was published in the editions of the *Hendersonville Lightning* on the following date or dates:

8/10

And that the said newspaper in which such notice, paper, document or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and is a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 10th day of August, 2022.

(Signed)

Sworn to and subscribed before me this 10th day of August, 2022.

Janet R. Chapin

Notary Public

My commission expires December 11, 2024.

**PUBLIC NOTICE  
ADVERTISEMENT FOR  
SEALED BIDS  
HENDERSON COUNTY**

The County will accept sealed bids for the purchase or rental of a medical testing machine inclusive of testing supplies as specified until 3:00 PM EST, Friday, August 26, 2022, at the Henderson County Finance Department, 113 North Main Street, Hendersonville, NC 28792 where the bids will be publicly opened and read aloud. Bids must be sealed and visibly labeled as "Formal Bid: Medical Testing Machine". The purchase or rental of this testing machine is funded with Federal funds. A copy of the bid package may be obtained from the Henderson County Finance Department between the hours of 9:00 AM and 4:00 PM, Monday through Friday, excluding Holidays, or on Henderson County's website at <https://www.hendersoncountync.gov/search/site/bids>. Bidders with questions regarding vehicle specifications or the bid process may be referred to Doug Guffey, Purchasing Agent, at 828-694-5023. Henderson County reserves the right to reject any and/or all bids received, or to select the bid which, in our opinion, is in the best overall interest of the County.

Doug Guffey, Purchasing Agent  
Henderson County Finance Department

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November 09, 2022

**Via UPS Next Day Air**

Henderson County Finance Department  
Attn: Doug Guffey  
113 N. Main Street  
Hendersonville, NC 28792

**RE: Formal Bid for Purchase or Rental of Medical Testing Machine**

Dear Purchasing Department:

McKesson Medical-Surgical Government Solutions LLC (“MMSGs”) is pleased to submit the following response to the Henderson County Finance Department (the “County”) for a Medical Testing Machine.

Please see the attached Exhibit(s) containing MMSGs’s clarifications to the County’s terms and conditions. Also included is a quote and product literature for additional details.

If awarded, MMSGs requests notification be provided to [Government.Bids@McKesson.com](mailto:Government.Bids@McKesson.com). Award notice should be provided prior to the contract start date to allow for standard steps that may include account number setup, item number setup, and price load.

If I can answer any questions that you may have, please feel free to contact me directly. Thank you for this opportunity and we look forward to doing business with you!

Sincerely,

*Jackie Hoover*

Proposal Specialist  
(904) 813-5843 Direct Dial  
[Government.Bids@McKesson.com](mailto:Government.Bids@McKesson.com)

**Exhibit A****Henderson County  
Formal Bid for Purchase or Rental of Medical Testing Machine**

MMSGGS will not be using subcontractors for purposes of fulfilling this solicitation. MMSGGS does not consider as subcontractors third party carriers or suppliers engaged for the purpose of providing delivery of products to MMSGGS's customers generally.

Except for the obligation to pay money, MMSGGS will not be liable to the other party for any failure or delay in performance caused by fires, shortage of materials or transportation, epidemics, government acts, acts of God, acts of terrorism, or any other matters beyond the MMSGGS's reasonable control, and such failure or delay will not constitute a material breach of this Agreement. Furthermore, MMSGGS is not a manufacturer of items and therefore is not able to prevent industry-standard supply chain issues such as manufacturer backorders, discontinuations, or allocations due to high demand or short supply.

**PURCHASE ORDER TERMS & CONDITIONS**

As the resulting contract will be for the purpose of supplying goods only, MMSGGS does not believe that **Section 10 – Services Performed** is applicable and requests removal in its entirety.

MMSGGS does not agree to the indemnification language in **Section 12 – Applicable Laws**, but will agree to the following proposed language below:

MMSGGS agrees that it shall indemnify and hold the County harmless from and against any and all losses, costs, damages, claims, suits and/or liabilities (“**Losses**”) incurred by the County as a result of a third-party claim of bodily injury to the extent such Losses are solely caused by MMSGGS's negligence or willful misconduct in the performance of MMSGGS's obligations under the Contract with the County. This indemnity does not extend to any Losses arising out of, resulting from or related to the County's negligence or willful misconduct.

A party's right to indemnification is conditioned upon the indemnified party satisfying the following requirements: (a) the indemnified party must promptly notify the indemnifying party of any claim for which indemnification will be sought; (b) the indemnified party must give the indemnifying party control of the defense against the claim (including the right to select counsel and settle or compromise such claim, but the indemnifying party must not agree to a consent decree or similar order binding the indemnified party or to any settlement that specifically apportions fault or liability to the indemnified party without the indemnified party's prior written consent); and (c) the indemnified party must reasonably cooperate with the indemnifying party's defense against the claim.

MMSGs does not agree to **Section 18 – Warranty**, but will agree to the following proposed language:

MMSGs MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS OR SERVICES PROVIDED BY MMSGs INCLUDING THE WARRANTY OF MERCHANTABILITY OR THE FITNESS FOR ANY PARTICULAR USE OR PURPOSE. THE COUNTY SHALL LOOK TO THE MANUFACTURER OF PRODUCTS AND THE PROVIDER OF SERVICE FOR ANY WARRANTY THEREON. NO AGENT, EMPLOYEE, OR REPRESENTATIVE OF MMSGs HAS ANY AUTHORITY TO MAKE ANY AFFIRMATION, REPRESENTATION, OR WARRANTY CONCERNING PRODUCTS OR SERVICES NOT SET FORTH IN THE COUNTY CONTRACT.

In addition to the County's Terms and Conditions, MMSGs requests the addition of the following language:

**Limitation of Liability**

In no event will MMSGs be liable to the County under, in connection with, or related to this solicitation for any indirect, incidental, special, punitive, or consequential damages whether or not MMSGs is advised of the possibilities of those damages whether based on breach of contract, warranty, tort, product liability, or otherwise (including lost profits) from any cause.

**Exhibit B**Henderson County  
Formal Bid for Purchase or Rental of Medical Testing Machine**PURCHASE ORDER TERMS & CONDITIONS**

MMSGGS does not agree to **Section 11**, but will agree to the following proposed changes:

**INSURANCE:** This purchase order shall be considered a written contract and requires the County to be included endorsed as ~~additional insured~~ for General Liability, ~~Automobile Liability, and Umbrella Liability~~ Insurance Policyies. Contractor shall maintain at its own expense (a) Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence limit/\$2,000,000 aggregate limit for bodily injury, property damage, or personal injury; ~~(b) Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence (if providing professional services);~~ (c) Worker's Compensation Insurance as required by the State of North Carolina General Statutes; (d) Commercial Automobile Insurance applicable to bodily injury and property damage covering all owned, non- owned, and hired vehicles, in an amount not less than \$1,000,000 combined single limit. ~~Negotiated written contracts may require additional insurance coverage.~~ A Certificate of Insurance shall be furnished prior to the commencement of services. The Certificate Holder shall be County of Henderson, Attn: Finance Dept., 113 N Main Street, Hendersonville, NC 28792.

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**Exhibit C**

Henderson County

Formal Bid for Purchase or Rental of Medical Testing Machine

In response to bid requirements, below is operational information which describes MMSGs's ability to service the County related to this opportunity.

**PURCHASE ORDER TERMS & CONDITIONS****Section 2 – Purchase Order Number & Section 3 – Price**

A Purchase Order number displays on the packing list and invoice when it is applied during the order entry process. Upon request, more information can be provided regarding our order processing methods.

**Section 19 – Hazardous Chemicals**

MSDS information is available via SupplyManager<sup>SM</sup>, our web-based ordering platform. Upon request, Customer Service is also available to help obtain MSDS information.

# Henderson County Health Department



## **Formal Bid for Purchase or Rental of Medical Testing Machine**

**Due Date:** Friday, August 26, 2022

**Time:** 3:00 PM EST

**Location:** Henderson County Finance Department

**Address:** 113 N. Main Street  
Hendersonville, NC 28792



**MMSGG PROPOSAL**

**CLIA-Waived Analyzer for Purchase**

(Purchase price does not include B&W Printer or Power Supply which can be purchased separately.)

Please see attached quote and literature for additional details.

**BID PROPOSAL FORM**

Pursuant to the General Statutes of North Carolina and 2 CFR Part 200 Federal Uniform Administrative Requirements, Cost Principles, and Audit, as amended, **sealed bids**, subject to the conditions and specifications herein, are invited for furnishing the following apparatus, supplies, materials, equipment, and/or services. All bids will be received by the Henderson County Finance Department, at 113 North Main St., Hendersonville, NC 28792, Friday, June 3, 2022 at 3:00PM EST, at which time the sealed bids will be publicly opened and read.

The undersigned, as bidder, hereby declares that this proposal is made without connection with any other person, company, or parties making a similar bid or proposal, and that the proposal is in all respects fair and in good faith, without collusion or fraud.

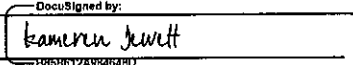
The bidder has carefully examined the annexed form of specifications and instructions to bidders and hereby declares that he will furnish the equipment called for in the manner prescribed in the specifications and instructions to bidders for the following price:

Specification No.	DESCRIPTION	MAXIMUM QUANTITY	UNIT PRICE	EXTENDED PRICE
1	Purchase Option		\$26,687.50	\$26,687.50
2	Rental of Equipment for 3-year term Option			
Testing Supplies:				
3	Flu	200	NO BID	
4	Flu/RSV	200	NO BID	
5	Strep A	200	\$22.00/EA	\$4,400.00
6	Covid-19	500	\$38.50/EA	\$19,250.00
7	COVID-19/Flu/RSV	500	\$68.00/EA	\$34,000.00

<b>GRAND TOTAL FOR ALL GOODS AND/OR SERVICES. INCLUSIVE OF SHIPPING TO HENDERSON COUNTY, NORTH CAROLINA AND INSTALLTION</b>	\$84,337.50
<b>ESTIMATED DELIVERY DATE OF EQUIPMENT.</b>	2-4 Weeks ARO

**PLEASE NOTE BID PRICES AND SPECIFICATIONS SHALL BE FULLY ENFORCEABLE FOR 90 DAYS AFTER THE BID DUE DATE UNLESS NOTED BELOW:**

**Printed Name of Firm Representative:** Kameren Jewett

**Signature of Firm Representative:** 

**Title:** Manager, State and Local Government Proposals

**Name of Firm Submitting Proposal:** McKesson Medical-Surgical Government Solutions LLC

**Firm Address:** 9954 Mayland Dr. Suite 5176, Henrico, VA 23233-1464

**Telephone Number:** 833-343-2700

**Email Address:** Government.Bids@McKesson.com

### ***Bidders Checklist***

- Be aware of the bid opening date and time as indicated on the first page of this proposal.
- You must submit **sealed bids in hard copy format**. Ensure your bid is properly addressed.
- All signatures must be by a company officer or agent who is authorized to enter into contracts and sign bid documents.
- Have you read and understood the "Terms and Conditions" and the "Instructions to Bidders" for submitting a bid?
- Have you read and do you completely understand all the specifications of this bid proposal?
- Have you submitted the requested number of copies of your proposal and included all the requested literature and specifications?
- If an addendum to the specifications was issued, has it been signed and returned with this bid proposal?
- Have you enclosed statements explaining any exceptions made to the specifications?
- Have you included executed copies of the attachments?

## INSTRUCTIONS TO BIDDERS

### Section 1: Purpose

The purpose of this document is to provide general and specific information for the use by suppliers in submitting a bid to supply Henderson County with the goods and/or services contained herein. All bids and contracts are governed by Henderson County policy, Section 143-129 of the North Carolina General Statutes, and 2 CFR Part 200 Federal Uniform Administrative Requirements, Cost Principles, and Audit.

### Section 2: Bid Schedule

Listed below are the dates and times by which stated actions must be taken or completed. The County may determine, in its sole discretion, that it is necessary to change any of these dates and times. Should changes be required, proper notice will be provided to potential bidders. All listed times are Eastern standard times.

Action	Time	Date
Bid issued	5:00 PM	08/10/2022
Deadline for Questions	5:00 PM	08/19/2022
County Responses	5:00 PM	08/22/2022
Bids Due	3:00 PM	08/26/2022

### Section 3: Bid Contact

Any and all questions, concerns and requests for additional information shall be directed to the Finance Department to the attention of the Purchasing Agent:

Doug Guffey  
 hcpurchasing@hendersoncountync.gov

### Section 4: Bidder Questions

The County is not liable for interpretations/misinterpretations or other errors, or omissions made by the Bidder in responding to this bid. The Bidder shall examine this bid to determine if the County's requirements and terms and conditions are clearly stated. If, after examination of the various requirements and terms and conditions of this bid, the Bidder believes there are any requirements or terms and conditions which remain unclear or which restrict competition, the Bidder may request, in writing, that the County clarify the requirement(s) and terms(s) and condition(s) specified by the Bidder. The Bidder must provide the Section(s), Subsection(s), Paragraph(s), and page number(s) that identify the requirements or conditions questioned by the Bidder.

Requests for clarification and technical questions to this bid must be received by the County no later than the date shown above in Section 2, entitled "Bid Schedule", under Deadline for Questions. The Bidders' failure to request clarification and submit questions by the date in the bid schedule above shall be considered to constitute the Bidders' acceptance of all County requirements and terms and conditions. The County shall issue addenda reflecting questions and answers to this bid, if any, and shall be posted to the County's website at <https://www.hendersoncountync.gov/rfps>.

#### Section 5: Objections to the Specifications

It is not the intent of the bid specifications to exclude or limit competition or favor any supplier. If there is an objection to any of the specifications or requirements listed herein, the bidder must notify Doug Guffey, Purchasing Agent, in writing, stating and listing the specifications and objections, no later than the date shown above in Section 2, entitled "Bid Schedule", under Deadline for Questions. If a pre-bid meeting has been scheduled, any objections must be presented in writing at that time. The objections stated must pertain both to form and substance of the bid document. Failure to object in accordance with the above procedure shall constitute a waiver on the part of the bidder to protest the solicitation. All concerns, questions, clarifications, or other correspondence must be directed only to Doug Guffey, Purchasing Agent. Information obtained from other sources will not be considered in the evaluation and award of this bid.

#### Section 6: Alternate Bids

Alternate bids are allowed. Alternate bids are those that are not identical by manufacturer and model to what is outlined within the bid document or one which has substantially different specifications to what is outlined in the bid document. When alternate bids are submitted, the bidder must submit documentation for review as a part of the bid to show that the product meets or exceeds the specifications of the item(s) referenced in the specifications. It shall be the responsibility of the bidder to show that the alternate equipment is equivalent and conforms to the specifications contained herein. Bidders may submit multiple bids on various manufacturers' brands/models.

#### Section 7: Bid Options

The County reserves the right to request pricing on optional equipment or services along with the pricing for the main or primary product or items when applicable. At the discretion of the County, some or all of the options requested may or may not be added and purchased based upon necessity and the availability of budgeted funds. The bid award will be made to the lowest, responsive, responsible bidder for the main or primary product or services on the Bid Proposal Form. Pricing for any additional options will be requested in a separate section of the bid and will not be included in the determination of the bid award.

#### Section 8: How to Prepare Bid Proposals

Bidders are encouraged to carefully review all provisions and attachments of this document prior to completion. Each bid constitutes an offer and may not be withdrawn except as provided herein. Prices are to remain firm for the period stated herein.

- a) **PROPOSAL FORM:** Submit all prices and offers on the **BID PROPOSAL FORM(s)** provided herein. All bid proposals must be submitted and signed by the supplier or their authorized representative with all erasures or corrections initialed and dated by the authorized representative of the proposal.
- b) **Addendum(s):** If applicable, bidders shall include signed addendum(s) with their bid submittal acknowledging the modifications made to the bid document.
- c) **SIGNATURE:** All bids must be signed by an authorized official of the company on the Bidders Signature Page. A bid may be rejected if it shows omissions, alterations of form, additions not called for, conditional bid, or any irregularities.

- d) **TAXES: Do not include taxes in your bid prices.** Taxes must be itemized and added to invoices separately when invoicing the County. The County is required to pay sales tax. The County is exempt from Federal Excise Tax and has a Federal Tax number.

**Section 9: How to Submit Bid Proposals**

- a. **SUBMIT SEALED BIDS ON THE BID PROPOSAL FORM PROVIDED HEREIN.**
- b. Provide (2) complete sets of your bid on the BID PROPOSAL FORM PROVIDED HEREIN in hard copy paper format (on 8-1/2" x 11" size paper, printed one side, only bound with a single staple in the upper left corner or with a single removable clip (no 3-ring binders) and must be SEALED in an envelope. **NO EMAIL OR FAX BIDS WILL BE ACCEPTED.**
- c. All bids must be mailed or delivered as follows in enough time to ensure receipt by the Purchasing Agent for this purpose on or before the time and date specified on the Bid Proposal Form. Bids not received by the time and date specified on the Bid Proposal Form will not be opened or considered.

**Mailing & Delivery Address:**

Henderson County: Formal Bid for Purchase or Rental of Medical Testing Machine  
Bid# \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Finance Department  
113 N Main Street  
Hendersonville, NC 28792

Bidders shall provide any available product literature and manufacturer's specifications at the request of Henderson County.

**Section 10: Bid Opening**

- a. **Adequate Number of Bids:** Due to the federal funding involved in this project, the contract cannot be awarded unless at least three competitive bids are received. If three bids are not received the bids submitted shall not be opened and the project shall be readvertised. After readvertisement, the County will be able to award the contract as long as at least one responsive, responsible bid has been received.
- b. Should the adequate number of bids be submitted, bids will be opened and read at the time and place shown on the enclosed Bid Proposal Form. No official award will be made at the Bid Opening. All bidders are welcome to attend the bid opening. **LATE BIDS WILL NOT BE OPENED OR ACCEPTED.**
- c. Bidders may review and request copies of the bid documents after the public bid opening has concluded.
- d. Bids will be examined by the Purchasing Agent and the using department officials promptly after the opening and an award made as early as possible. No bids may be withdrawn except for as provided herein.

### Section 11: Award of Bid

a. **Standard of Bid Award Acceptance:**

The County reserves the right to reject any or all bids and to waive any irregularities or technicalities in bids received whenever such rejection or waiver is in the best interest of Henderson County. The award shall be made to the lowest, responsive, responsible bidder taking into consideration quality, performance and the time specified in the bid for the performance of the contract.

b. **Bid Prices:**

All items and products proposed in response to this Bid are to be new, in un-used condition unless otherwise noted in the minimum specifications. All prices proposed in response to this Bid are to include all transport, freight, fuel surcharges and other fees if applicable and be delivered **FOB destination, freight prepaid and allowed** to the location provided on the County purchase order if not otherwise instructed within the specifications section. All items are to be packaged, and shipped or delivered safely in a protective carton, fully assembled and serviced, ready for use and operation where applicable or otherwise described within the specifications. All supplies, equipment, and apparatus must meet all Federal, State, and Local safety regulations, requirements, and guidelines, such as OSHA, EPA, US DOT, NC-DOT, NFPA, UL, etc., if so regulated.

c. **Order of Precedence:**

In cases of conflict between sections and provisions within the Bid document, the Order of Precedence will be 1) the Special Conditions section specific to the Bid (if present); 2) the Minimum Specifications section specific to the Bid, 3) Henderson County Terms and Conditions; and 4) the Instructions to Bidders section of the Bid document.

d. **Bid Award Approval:**

The Henderson County Board of Commissioners will approve the award of the bid at a designated meeting.

### Section 12: Errors in Bids

Bidders or their authorized representatives are expected to understand the conditions, requirements, and specifications before submitting bids. Failure to do so will be at the bidders' own risk. In case of an error in the extension of prices on the bid, the unit price shall govern.

### Section 13: Bid Tabulation

Bidders may request a bid tabulation from the Purchasing Agent, after the public bid opening.

### Section 14: Specifications

These specifications must be considered as minimum requirements. If it is necessary to bid alternate equipment or to take exceptions to the specifications as set forth, this must be so stated in your bid. Any reference to a model or brand is only to denote quality and does not mean that equal equipment will not be considered.

I. **Overview**

Bidders are requested to provide pricing for the purchase or rental for a 3-year term of medical testing equipment inclusive of testing supplies as specified below. Bidders can provide pricing based on the purchase of the equipment and testing supplies and/or rental for a 3-year term of the equipment with the purchase of testing supplies

II. **Machine**

- A. Shall be a rapid molecular diagnostic test for qualitative detection of the viruses causing COVID-19, FLU A, FLU B, and respirator syncytial virus (RSV) infections
- B. With one patient sample machine shall run a single multiplex test that differentiates between COVID-19, FLU A, FLU B, and respirator syncytial virus (RSV) infections
- C. Shall have operator and QC lockout
- D. Shall have a built-in barcode scanner and touchscreen tablet

III. **Testing Supplies**

A. General

1. Shall be single-use self-contained cartridge
2. Each cartridge shall have an integrated QC
3. Reagents shall be able to be stored at room temperature
4. Shall be able to provide positive results in 36 minutes
5. Shall be CLIA waived
6. Shall be able to rapidly detect SARS-CoV-2, including emerging variants
7. Shall be able to differentiate flu, RSV, and SRS-CoV-2 and potential co-infections
8. Shall have 3 distinct gene tarets for SARS-CoV-2:N2, E, RdRP

B. Types

1. Flu
  - a. Shall provide real time RT-PCR molecular test results
  - b. Sample type shall be nasal swab or nasopharyngeal
2. Flu/RSV
  - a. One Cartridge. One Sample. Three results for Flu A, Flu B and RSV.
  - b. Sample type shall be nasal swab or nasopharyngeal
3. Strep A
  - a. Confirmatory molecular test results
  - b. Sample Type-Throat Swab (E-Swab in liquid amies)

C. Quantities

1. Testing supplies to be utilized per annum are as follows:
  - a. FLU: 200
  - b. FLU/RSV: 200
  - c. Strep A: 200
  - d. Covid-19: 500
  - e. Covid-19/Flu/RSV: 500
2. Please note that the tests indicated above shall be the maximum number of tests that shall be reserved and made available to the County on an as needed basis.



**Section 15: Minority & Disadvantaged Business**

Pursuant to General Statutes of North Carolina Sections 143-128 and 143-131 as well as 2 CFR 200.321 of the Uniform Administrative Requirements, the County encourages and provides equal opportunity for Certified Minority and Women- Owned Business Enterprise (MWBE) businesses to participate in all aspects of the County’s contracting and procurement programs.

For Disadvantaged Business Enterprise requirements, see Minority Business Participation Guidelines posted under Doing Business with Henderson County at <https://www.hendersoncountync.gov/county/page/doing-business-henderson-county>.

**Section 16: Contracting**

After the firm is selected, the negotiated contract shall incorporate and be in compliance with all provisions within Section 17: Terms & Conditions as well as Attachment I: Funding Procedural Requirements Addendum.

In addition, the negotiated contract, and all contracts drafted by the successful firm for purchase, construction and other services to be provided on this project, shall incorporate, and comply with all Federal Uniform Guidance policies and procedures currently or in the future adopted by the Henderson County Board of Commissioners. “Federal Awards Allowable Costs/Cost Principles” as it relates to the American Rescue Plan Expenditures, [https://www.hendersoncountync.gov/sites/default/files/fileattachments/board\\_of\\_commissioners/meeting/132661/d.b.pdf](https://www.hendersoncountync.gov/sites/default/files/fileattachments/board_of_commissioners/meeting/132661/d.b.pdf) must be followed as approved or amended by the Henderson County Board of Commissioners, [https://www.hendersoncountync.gov/sites/default/files/fileattachments/board\\_of\\_commissioners/meeting/132671/ca.a.pdf](https://www.hendersoncountync.gov/sites/default/files/fileattachments/board_of_commissioners/meeting/132671/ca.a.pdf) , ...and such other and further policies, procedures, and contract addenda that the County may adopt regarding to expenditures of Fiscal Recovery Funds (State or Local) under the American Rescue Plan Act, Pub. L. No 117-2.

Notification of compliance with these contract provisions shall be submitted to the Henderson County Finance Department quarterly from the date of execution of the contract.

**Section 17: Terms and Conditions**

Any proposal submitted to Henderson County shall be deemed to include all the Terms and Conditions shown in the document found online at

[https://www.hendersoncountync.gov/sites/default/files/fileattachments/henderson\\_county/page/42611/terms\\_and\\_conditions\\_02.23.2022.pdf](https://www.hendersoncountync.gov/sites/default/files/fileattachments/henderson_county/page/42611/terms_and_conditions_02.23.2022.pdf)

These Terms and Conditions, which refer to a “purchase order”, shall be deemed to be included in any contract entered into as a result of this Request for Proposals (“RFP”).

Any attempt by a proposed contracting party (the “Bidder”) under the RFP to exclude any of these Terms and Conditions shall cause any Proposal made in response to this RFP to be deemed to be non-responsive (unless Henderson County has notified the Bidder that the funding source for the goods or work sought under this RFP is not federal funds, in which case those provisions under number 15 of the Terms and Conditions (and all subparts thereunder) may be excluded from a Proposal.

**Section 18: Funding Source**

This request for proposals is funded with **Federal Funds**. 2 CFR Part 200 Federal Uniform Administrative Requirements, Cost Principles, and Audit is applicable.

**Section 19: Attachments**

Attachment I: Funding Procedural Requirements Addendum  
Attachment II: Vendor Information Form

**ATTACHMENT I**  
**FUNDING PROCEDURAL REQUIREMENTS ADDENDUM**

This **FUNDING PROCEDURAL REQUIREMENTS ADDENDUM** (this “*Addendum*”) is entered into by and between Contractor [\_\_\_\_\_], a [ ] (“*Contractor*”), and County of Henderson, a body corporate and politic of the State of North Carolina (“*County*”), and forms an integral part of the Contract (as defined in Section I hereof).

**RECITALS**

**WHEREAS**, the County has received, either as a Recipient or Subrecipient (as each such term is defined in Section I hereof) a payment from the Coronavirus State Fiscal Recovery Fund (“*State Fiscal Recovery Fund*”) or Coronavirus Local Fiscal Recovery Fund (“*Local Fiscal Recovery Fund*” and, together with the State Fiscal Recovery Fund, the “*Fiscal Recovery Funds*”) established pursuant to Sections 602 and 603, respectively, of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“*ARPA*”); and

**WHEREAS**, the County contemplates paying, in part or in whole, for the cost of the Contract (as defined in Section I hereof) using monies received from the Fiscal Recovery Funds; and

**WHEREAS**, in using such funds, County must comply with the terms of ARPA, regulations issued by the U.S. Department of the Treasury governing the expenditure of monies distributed from the Fiscal Recovery Funds (including, without limitation, the Interim Final Rule (86 Fed. Reg. 26,786 (May 17, 2021) and Final Rule (87 Fed. Reg. 4,338 (Jan. 27, 2022))), the Award Terms and Conditions applicable to the Fiscal Recovery Funds, and such other guidance as the U.S. Department of the Treasury has issued or may issue governing the expenditure of monies distributed from the Fiscal Recovery Funds (collectively, the “*Regulatory Requirements*”); and

**WHEREAS**, the County has determined that compliance with the provisions of ARPA and the Regulatory Requirements and 2 C.F.R. Part 200 *et seq.* should be required in this Contract.

**WHEREAS**, pursuant to the Regulatory Requirements, County must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury has determined or may determine are inapplicable to the Fiscal Recovery Funds; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.327, County must include within the Contract applicable provisions described in Appendix II to 2 C.F.R. Part 200, each of which is contained in this Addendum; and

**WHEREAS**, the County shall not enter into the Contract or make any distributions of funds to Contractor using monies from the Fiscal Recovery Funds absent Contractor’s agreement and adherence to each term and condition contained herein.

**NOW THEREFORE**, Contractor and County do mutually agree as follows:

**AGREEMENTS**

- I. Definitions.** Unless otherwise defined in this Addendum, capitalized terms used in this Addendum shall have the meanings ascribed thereto in this Section I.
- a) “*ARPA*” shall mean the American Rescue Plan Act of 2021, Pub. L. No. 117-2, as amended.

- b) “*Administering Agency*” shall have the meaning specified in 41 C.F.R. § 60-1.3.
- c) “*Applicant*” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“An applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.”).
- d) “*Construction Work*” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[T]he construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.”).
- e) “*Contract*” shall mean the legal instrument by which the County, as a Recipient or Subrecipient, shall purchase from Contractor property or services needed to carry out a project or program under a Federal award, and of which this Addendum shall constitute an integral part.
- f) “*Contractor*” shall mean the entity named as “Contractor” in this Addendum that has received a Contract from the County.
- g) “*Federally Assisted Construction Contract*” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[A]ny agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the government of the United States of America for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work..”).
- h) “*Government*” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[T]he government of the United States of America.”).
- i) “*Laborer*” or “*Mechanic*” shall have the meaning specified in 29 C.F.R. § 5.2(m), which is provided here for ease of reference (“The term laborer or mechanic includes at least those workers duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in part 541 of [Title 40 of the United States Code] are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of [Title 40 of the United States Code], are laborers and mechanics for the time so spent.”).

- j) "*Recipient*" shall mean an entity that receives a Federal award directly from a Federal awarding agency. The term does not include subrecipients or individuals that are beneficiaries of an award.
- k) "*Subcontract*" shall mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of this Contract or a Subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.
- l) "*Subcontractor*" shall mean an entity that receives a Subcontract.
- m) "*Subrecipient*" shall mean an entity that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- n) "*Tier*" shall have the meaning indicated in 2 C.F.R. Part 180 and illustrated in 2 C.F.R. Part 180, Appendix II.

**II.** Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Henderson County reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

**III.** Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000)

Henderson County reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. Henderson County also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if Henderson County believes, in its sole discretion that it is in the best interest of Henderson County to do so. The vendor will be compensated for work performed and accepted and goods accepted by Henderson County as of the termination date if the contract is terminated for convenience of Henderson County. Any award under this procurement process is not exclusive and Henderson County reserves the right to purchase goods and services from other vendors when it is in the best interest of Henderson County.

**IV.** *Equal Employment Opportunity*

- a) If this Contract is a Federally Assisted Construction Contract exceeding \$10,000, during the performance of this Contract, Contractor agrees as follows:

- i. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- ii. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- iv. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or Federally Assisted Construction Contracts in accordance with procedures authorized in Executive Order

11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- viii. Contractor will include the portion of the sentence immediately preceding paragraph (a)(i) of this Section II and the provisions of paragraphs (a)(i) through (a)(viii) in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase order as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The County further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the County so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

- ix. The County agrees that it will assist and cooperate actively with the Administering Agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
  - x. The County further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the Administering Agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the County agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.
- b) If this Contract is not a Federally Assisted Construction Contract exceeding \$10,000, the provisions of Section I(a) of this Contract shall not apply.

V. *Copeland "Anti-Kickback" Act*

- a) Contractor and any Subcontractors performing work under the Contract shall comply with 18 U.S.C. § 874. The County shall report all suspected or reported violations to the U.S. Department of the Treasury.

VI. *Contract Work Hours and Safety Standards Act*

- a) *Overtime Requirements.* No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b) *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the clause set forth in Section [IV(a)] (*Overtime Requirements*) above, Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual Laborer or Mechanic, including watchmen and guards, employed in violation of the clause set forth in Section [IV(a)] (*Overtime Requirements*) above, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in Section [IV(a)] (*Overtime Requirements*) above.
- c) *Withholding for Unpaid Wages and Liquidated Damages.* The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or Subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in Section [IV(b)] (*Violation; Liability for Unpaid Wages; Liquidated Damages*) of this section.
- d) *Subcontracts.* Contractor or Subcontractor shall insert in any Subcontract the clauses set forth in Sections IV(a) through IV(d) and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. Contractor shall be responsible for compliance by any first tier Subcontractor or lower tier Subcontractor with the clauses set forth in Sections IV(a) through IV(d).
- e) *Payroll and Records.* Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all Laborers and Mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid,



daily and weekly number of hours worked, deductions made, and actual wages paid. Records to be maintained under this provision shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Department of the Treasury and the U.S. Department of Labor, and Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

- f) *Exceptions.* None of the requirements of Section [IV] of this Addendum shall apply if this Contract is (1) a Contract for (i) transportation by land, air, or water; (ii) the transmission of intelligence, (iii) the purchase of supplies or materials or articles ordinarily available in the open market, or (iv) in an amount that is equal to or less than \$100,000.

**VII. Rights to Inventions Made Under a Contract or Agreement**

- a) The Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Government Purposes", any subject data or copyright described below. "Government Purposes," means use only for the direct purposes of the Government. Without the copyright owner's consent, the Government may not extend its Federal license to any other party.
- i. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
  - ii. Any rights of copyright purchased by Contractor using Federal assistance funded in whole or in part by the Department of the Treasury.
- b) Unless the Department of the Treasury determines otherwise, a Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit the Department of the Treasury to make available to the public, either the Department of the Treasury's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
- c) Unless prohibited by North Carolina law, upon request by the Government, Contractor agrees to indemnify, save, and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Contractor.
- d) Nothing contained in this clause shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- e) Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the

underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work. The Contractor agrees to include these requirements in each Subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

- f) For the purposes of this Section V, "subject data" means "recorded information, whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract." Examples of 'subject data' include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses or other similar information used for performance or administration of the Contract."

**VIII. Clean Air Act and Federal Water Pollution Control Act**

- a) *Clean Air Act.* Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to the U.S. Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the U.S. Department of the Treasury.
- b) *Federal Water Pollution Control Act.* Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* Contractor agrees to report each violation to the County and understands and agrees that County will, in turn, report each violation as required to assure notification to the U.S. Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the U.S. Department of the Treasury.

**IX. Debarment and Suspension**

- a) Due to its receipt of Fiscal Recovery Funds, the County is a participant in a nonprocurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210 and 31 C.F.R. § 19.210. Therefore, this Contract is a lower-tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if (1) the amount of this Contract is greater than or equal to \$25,000 (2 C.F.R. § 180.220(b)(1); 31 C.F.R. § 19.220(b)(1)), (2) the Contract requires the consent of an official of the Department of the Treasury (2 C.F.R. § 180.220(b)(2); 31 C.F.R. § 19.220(b)(2)), or (3) this Contract is for federally-required audit services (2 C.F.R. § 180.220(b)(3); 31 C.F.R. § 19.220(b)(3)).
- b) **If this Contract is a covered transaction as set forth in Section [VII(a)] above, Contractor hereby certifies as of the date hereof that each of Contractor, Contractor's principals (defined at 2 C.F.R. § 180.995), and the affiliates (defined at 2 C.F.R. § 180.905) of Contractor and Contractor's principals are not excluded (defined at 2 C.F.R. § 180.935) and are not disqualified (defined at 2 C.F.R. § 180.935). If any of the foregoing persons are excluded or disqualified and the Secretary of the Treasury has not granted an**

**exception pursuant to 31 C.F.R. § 19.120(a), (1) this Contract shall be void, (2) The County shall not make any payments of Federal financial assistance to Contractor, and (3) The County shall have no obligations to Contractor under this Contract.**

- c) Contractor must comply with 2 C.F.R. Part 180, Subpart C, and 31 C.F.R. Part 19, and must include a requirement to comply with these regulations in any lower-tier covered transaction it enters into. This certification is a material representation of fact relied upon by the County.
- d) If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to The County, the Government may pursue available remedies, including but not limited to suspension and/or debarment.

**X. Byrd Anti-Lobbying Amendment**

- a) Contractor certifies to the County, and Contractor shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Contractor shall, and shall cause each Tier below it, to disclose any lobbying with non-Federally appropriated funds that takes place in connection with obtaining any Federal award. Such disclosures (to be set forth on Standard Form-LLL contained in 31 C.F.R. Part 21, Appendix B), shall be forwarded from Tier to Tier up to the County who will in turn forward the certification(s) to the U.S. Department of the Treasury. Contractor shall cause the language of this Section [VII(a)] to be included in all Subcontracts. This certification is a material representation of fact upon which the County has relied when entering into this Contract and all liability arising from an erroneous representation shall be borne solely by Contractor.
- b) **Contractors that bid or apply for a contract exceeding \$100,000 (including this Contract, if applicable) also must file with the County the Certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.**
- c) **Contractor also shall cause any Subcontractors with a Subcontract (at any Tier) exceeding \$100,000 to file with their Tier above it the Certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.**

**XI. Procurement of Recovered Materials**

- a) Section IX(b) shall apply if (1) this Contract involves the purchase of an item designated by the Environmental Protection Agency (“EPA”) in 40 C.F.R. Part 247 that exceeds \$10,000, or (2) the total value of such designated items acquired during the County’s preceding fiscal year exceeded \$10,000.
- b) In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (1) competitively within a timeframe providing for compliance with the Contract performance schedule, (2) meeting Contract performance requirements; or (3) at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines website,

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**XII. Prohibition on Contracting for Covered Telecommunications Equipment or Services**

- a) *Definitions*. Unless otherwise defined in this Contract, capitalized terms used in this Section IX shall have the meanings ascribed thereto in this Section X(a):
- i. “*Backhaul*” means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones / towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).
  - ii. “*Covered Foreign Country*” means the People’s Republic of China.
  - iii. “*Covered Telecommunications Equipment or Services*” means: (a) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (b) for the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (c) telecommunications or video surveillance services provided by such entities or using such equipment; or (d) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a Covered Foreign Country.
  - iv. “*Critical Technology*” means (1) defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations; (2) items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled (i) pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or (ii) for reasons relating to regional stability or surreptitious listening; (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities); (4) nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material); (5) select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or (6) emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

- v. *“Interconnection Arrangements”* means arrangements governing the physical connection of two or more networks to allow the use of another’s network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.
- vi. *“Roaming”* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.
- vii. *“Substantial or Essential Component”* means any component necessary for the proper function or performance of a piece of equipment, system, or service.
- viii. *“Telecommunications Equipment or Services”* means telecommunications or video surveillance equipment or services, such as, but not limited to, mobile phones, land lines, internet, video surveillance, and cloud services.

b) *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after August 13, 2020, from obtaining or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) applies, Contractor and any Subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds (including, without limitation, Fiscal Recovery Funds) received from a Federal government to:
  - 1. Procure or obtain any equipment, system, or services that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system, or as Critical Technology of any system;
  - 2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system, or as Critical Technology of any system;
  - 3. Enter into, extend, or renew contracts with entities that use Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system, or as Critical Technology as part of any system; or
  - 4. Provide, as part of its performance of this Contract, any Subcontract, or any other contractual instrument, any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology as part of any system.

c) *Exceptions.*

- i. This clause does not prohibit Contractor or Subcontractors from providing—
  1. A service that connects to the facilities of a third-party, such as Backhaul, Roaming or Interconnection Agreements; or
  2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:
  1. Covered telecommunications equipment that:
    - a. Are not used as a Substantial or Essential Component of any system; and
    - b. Are not used as Critical Technology of any system.
  2. Other telecommunications equipment or services that are not considered Covered Telecommunications Equipment or Services.

d) *Reporting Requirement*

- i. In the event Contractor identifies covered Telecommunications Equipment or Services used as a Substantial or Essential Component of any system, or as Critical Technology as part of any system, during Contract performance, or Contractor is notified of such by a Subcontractor at any tier or by any other source, Contractor shall report the information in paragraph [(d)(2)] of this clause to the County, unless elsewhere in this Contract are established procedures for reporting the information.
- ii. Contractor shall report the following information to The County pursuant to paragraph (d)(1) of this clause:
  1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this Section: any further available information about mitigation actions undertaken or recommended. In addition, Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or

submission of covered telecommunications equipment or services.

- e) *Subcontractor*. Contractor shall cause to be inserted the substance of this Section X, including this paragraph (e), in all Subcontracts and other contractual instruments relating to the performance of this Contract.

**XIII. Domestic Preferences for Procurements**

- a) As applicable, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials Produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other Manufactured Products. Contractor shall cause any Subcontractors to include the requirements of this Section XI in any Subcontracts.
- b) For purposes of this Section XI, the following terms shall mean:
  - i. “*Produced in the United States*” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coating, occurred in the United States.
  - ii. “*Manufactured Products*” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**XIV. Solicitation of Minority and Women-Owned Business Enterprises**

- a) If Contractor intends to let any Subcontracts, Contractor shall (1) place qualified small and minority businesses and women’s business enterprises on its solicitation lists; (2) assure that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources; (3) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises; (4) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; (5) use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for Historically Underutilized Businesses.
- b) For the purposes of Section XII(a), an entity shall qualify (1) as a “minority business” or “women’s business enterprise” if it is currently certified as a North Carolina “historically underutilized business” under N.C. Gen. Stat. § 143-128.4(a), and (2) as a “small business” if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

**XV. Access to Records**

- a) Contractor agrees to provide the County, the U.S. Department of the Treasury, the Treasury Office of Inspector General, the Government Accountability Office, and the Comptroller General of the United States, or any of their authorized representatives access to any records (electronic and otherwise) of Contractor which are directly pertinent to this Contract to

conduct audits or any other investigation. Contractor agrees to permit any of the foregoing parties to reproduce such records by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- b) Contractor agrees to retain all records covered by this Section XIII through December 31, 2031.

**XVI. Conflicts of Interest; Gifts & Favors**

- a) Contractor understands that (1) The County will use Fiscal Recovery Funds to pay for the cost of this Contract, and (2) the expenditure of Fiscal Recovery Funds is governed by the [*Conflict of Interest Policy*] of the County, the Regulatory Requirements (including, without limitation, 2 C.F.R. § 200.318(c)(1)), and North Carolina law (including, without limitation, N.C. Gen. Stat. § 14-234(a)(1) and N.C. Gen. Stat. § 14-234.3(a)).
- b) Contractor certifies to the County that as of the date hereof, to the best of its knowledge after reasonable inquiry, no employee, officer, or agent of the County involved in the selection, award, or administration of this Contract (each, a “Covered Individual”), nor any member of a Covered Individual’s immediate family, nor a Covered Individual’s partner, nor an organization (including Contractor) which employs or is about to employ a Covered Individual, has a financial or other interest in or has received a tangible personal benefit from Contractor. Should Contractor obtain knowledge of any such interest or any tangible personal benefit described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to the County in writing.
- c) Contractor certifies to the County that it has not provided, nor offered to provide, any gratuities, favors, or anything of value to an officer, employee, or agent of the County. Should Contractor obtain knowledge of the provision, or offer of the provision, of any gratuity, favor, or anything of value to an officer, employee, or agent described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to the County in writing.

**XVII. Assurances of Compliance with Title VI of the Civil Rights Act of 1964**

- a) Contractor and any Subcontractor, or the successor, transferee, or assignee of Contractor or any Subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Contract.

- XVIII. Other Non-Discrimination Statutes.** Contractor acknowledges that the County is bound by and agrees, to the extent applicable to Contractor, to abide by the provisions contained in the federal statutes enumerated below, and any other federal statutes and regulations that may be applicable to the expenditure of Fiscal Recovery Funds:



- a) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- c) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- d) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto

**XIX. Miscellaneous**

- a) **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 Fed. Reg. 19216 (Apr. 18, 1997), the County encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles.
- b) **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 Fed. Reg. 51225 (Oct. 6, 2009), the County encourages Contractor to adopt and enforce policies that ban text messaging while driving.

**XX. Conflicts and Interpretation.** To the extent that any portion of this Addendum conflicts with any term or condition of the Contract expressed outside of this Addendum, the terms of this Addendum shall govern.

*[Remainder of Page Intentionally Left Blank]*

**CONTRACTOR:**

By: DocuSigned by:  
Kameren Jewett  
9369612A684646D...

Name: Kameren Jewett

Title: Manager, State and Local Government Proposals

**COUNTY OF HENDERSON:**

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

Name: \_\_\_\_\_

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

This instrument has been preaudited in the manner required by the Local Government Budget & Fiscal Control Act, N.C.G.S. 159-28(a).

\_\_\_\_\_  
Henderson County Finance Director

**ATTACHMENT 1  
TO  
FUNDING PROCEDURAL REQUIREMENTS ADDENDUM  
APPENDIX A, 31 C.F.R. PART 21 – CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

McKesson Medical-Surgical

The Contractor Government Solutions LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

DocuSigned by:

*Kameren Jewett*

Signature of Contractor's Authorized Official

Kameren Jewett, Manager, State and Local Government Proposals  
Name and Title of Contractor's Authorized Official

08/24/2022

Date

**ATTACHMENT 2  
TO  
FUNDING PROCEDURAL REQUIREMENTS ADDENDUM**

DEBARMENT CERTIFICATION FORM The Contractor certifies that, neither the Contractor firm nor any owner, partner, director, officer, or principal of the Contractor, nor any person in a position with management responsibility or responsibility for the administration of federal funds, nor any subcontractors or suppliers:

- (a) Are presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal or state department/agency:
- (b) Have within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or
- (d) Have within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.
- (e) The contractor is "Actively" registered with SAMS (Service for Award Management) and has been assigned the following Unique Entity Identification Number: \_\_\_\_\_.

The Contractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

Dated this 24 day of August, 20 22

DocuSigned by:  
By Kameru Jewett  
Authorized Signature for Contractor

Kameru Jewett, Manager, State and Local Government Proposals  
Printed Name and Title

Attachment II: Vendor Information Form	
Company Firm Name	
McKesson Medical-Surgical Government Solutions LLC	
Mailing Address	
9954 Mayland Dr, Suite 5176, Henrico, VA 23233	
Contact Name	
Kameren Jewett	
Phone Number	
833-343-2700	
Federal EX ID Number	
20-2046702	
Required Documentation	
Completed IRS W-9 form dated within calendar year and signed by authorized personnel.	
Minority and Women Owned Business (MWBE) certification, if applicable.	
Unique Entity Identification Number confirmed in SAM.gov	
Unique Entity Identification Number (SAM.gov)	
government.bids@mckesson.com	
www.mckesson.com	
Manager, State and Local Government Proposals	
Email	
Website	
W9 Received	
MWBE Certification Received	
Unique Entity Identification Number confirmed in SAM.gov	

**Henderson County  
Terms and Conditions**

By acceptance of a purchase order with Henderson County, or by entering into the contract or agreement with Henderson County to which this "Terms and Conditions" is attached, the vendor to Henderson County or contractor with Henderson County (as the situation may be, hereinafter referred to as the "seller"), declares that all supplies, materials, equipment, apparatus and services furnished to Henderson County pursuant to the purchase order or contract/agreement will be furnished according to the following terms and conditions, which terms and conditions shall supersede any language to the contrary in any other documentation of such purchase order or contract/agreement.

1. **QUESTIONS CONCERNING THE PURCHASE ORDER:** Contact the Ship to Department shown.
2. **PURCHASE ORDER NUMBER:** The purchase order number must appear on all invoices, packing slips, correspondence, and bills of lading.
3. **PRICE:** All goods and/or services must be billed to Henderson County (County) at prices and quantities not to exceed those stated on the purchase order. All invoices, packages, shipping notices or the like affecting this order shall contain the applicable purchase order number. All prices are quoted F.O.B. Destination unless specifically indicated otherwise.
4. **INVOICES:** Invoices for partial shipments will be accepted and final invoices should indicate completion of order.
5. **CASH DISCOUNTS:** All cash discounts will be effective from the date of actual receipt of a correct and approved invoice by the ordering department.
6. **PAYMENT TERMS:** The County agrees to pay all approved invoices Net Thirty (30) days from the date received and approved. The County does not agree to the payment of late charges or finance charges assessed by the seller for any reason. Invoices are payable in U.S. funds.
7. **TAXES:** Henderson County is NOT Sales Tax-Exempt. Prices shown on the County's purchase orders do not include tax; however, all applicable taxes shall be paid by the County. Seller shall itemize taxes on the seller's invoice. It should be noted that the County is exempt from Federal Excise Tax except as required to be paid by law.
8. **AGREEMENT TERMS:** Absent a negotiated contract, this purchase order is limited to the terms and conditions contained on the face and back hereof. Any additional or different terms in the Seller's form are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. All delivery of goods and/or services shall conform to specifications, price, terms and conditions as set forth in this instrument. This purchase order including all contracts, references and/or insertions, with the stated terms and conditions thereon shall constitute the complete agreement between the County and the Seller. The terms and conditions of this order shall not be modified by any verbal understanding and shall only be binding if agreed to in writing by the County.
9. **DELIVERY/ACCEPTANCE OF GOODS:** All quotations are solicited on a delivered price basis. When the County accepts a quotation not including all shipping charges, your claim for reimbursement must be itemized on the invoice and supported with a copy of the original freight bill. The packing list shall be enclosed in each box or package. All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. All deliveries on this order must be in full accordance with specifications, properly identified with the purchase order number and must not exceed the quantities specified. The County shall have the right to inspect and test all items supplied under the order before making acceptance. Risk of loss and title to all goods received shall remain with the Seller until the County has made acceptance. Rejected goods shall be returned to the Seller at Seller's risk and expense. Payment for supplies shall not constitute acceptance and is without prejudice to claims that the County may have against the seller.
10. **SERVICES PERFORMED:** All services rendered under this agreement will be performed at the Seller's own risk and the Seller expressly agrees to indemnify and hold harmless the County, its officers, agents, and employees from any and all liability, loss or damage that they may suffer as a result of claims, demands, actions, damages or injuries of any kind or nature whatsoever by or to any and all persons or property.
11. **INSURANCE:** This purchase order shall be considered a written contract and requires the County to be endorsed as additional insured for General Liability, Automobile Liability, and Umbrella Liability Insurance Policies. Contractor shall maintain at its own expense (a) Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence limit/\$2,000,000 aggregate limit for bodily injury, property damage, or personal injury; (b) Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence (if providing professional services); (c) Worker's Compensation Insurance as required by the State of North Carolina General Statutes; (d) Commercial Automobile Insurance applicable to bodily injury and property damage covering all owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 combined single limit. Negotiated written contracts may require additional insurance coverage. A Certificate of Insurance shall be furnished prior to the commencement of services. The Certificate Holder shall be County of Henderson, Attn: Finance Dept., 113 N Main Street, Hendersonville, NC 28792.
12. **APPLICABLE LAWS:** By acceptance of this order, seller represents that the goods covered by this order are in full compliance with all applicable local, state, or federal laws and regulations and agrees to indemnify and defend the County against any loss, cost, liability, or damage by reason of seller's violation of any laws.
13. **E-VERIFY:** North Carolina General Statute §143-133.3 prohibits the County from entering into contracts with contractors and subcontractors who have not complied with the requirement of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if contractor utilizes a subcontractor, contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
14. **IRAN DIVESTMENT:** By acceptance of this purchase order, vendors, contractors, and/or subcontractors certify they are not listed and will not utilize a subcontractor listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.59, Iran Divestment Act Certification.
15. **FEDERAL FUNDS:** The following provisions are required and apply when federal funds are expended by Henderson County for any contract resulting from this procurement process.
  - A. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
 

When federal funds are expended by Henderson County, Henderson County reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.
  - B. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000)
 

When federal funds are expended by Henderson County, Henderson County reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. Henderson County also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if Henderson County believes, in its sole discretion that it is in the best interest of Henderson County to do so. The vendor will be compensated for work performed and accepted and goods accepted by Henderson County as of the termination date if the contract is terminated for convenience of Henderson County. Any award under this procurement process is not exclusive and Henderson County reserves the right to purchase goods and services from other vendors when it is in the best interest of Henderson County.
  - C. If the source of funds for this contract is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable):

**Henderson County  
Terms and Conditions**

- Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324); Huawei/ZTE Ban (2 C.F.R. 200.216); Domestic Preference Clause (2 C.F.R. 200.322). To the extent these provisions apply and conflict with provisions of North Carolina law, these provisions shall control. It shall be the responsibility of the contractor to determine whether these provisions apply.
16. **FEMA PROVISIONS:** The following provisions are required and apply when federal funds are expended by Henderson County for any contract resulting from this procurement process.
- A. **Changes:** Changes or modifications to the original contract will only be allowed if the following provisions are met:
1. The change is within the scope of its grant or cooperative agreement
  2. The amount of the change has budgetary funds available
  3. The change does not fundamentally modify the project and
  4. The change is reasonable for the completion of the project
- B. **Access to Records:** The contractor agrees to provide Henderson County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcripts.
- The Contractor agrees to permit any of the forgoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to work being completed under the contract.
- C. **DHS, Seal, Logo, and Flags:** The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likeness of DHS agency officials without specific FEMA approval
- D. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- E. **No Obligation by Federal Government:** The Federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- F. **Program Fraud and False or Fraudulent or Related Acts:** The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.
17. **CANCELLATION:** The County reserves the right to cancel this order, or any part thereof, at any time without penalty. Such cancellation may be based upon failure of the seller to comply with the terms and conditions of this transaction, failure to perform the work with promptness and diligence, failure to make shipment within the time specified or for any other reason which causes the seller not to perform as agreed.
18. **WARRANTY:** The seller expressly warrants that goods, covered by this order will conform to the specifications, drawings, or samples furnished by the County and shall be free from defects in material and/or workmanship and shall be merchantable. This warranty shall survive any inspection, delivery acceptance, or payment by the County. The seller also warrants that the goods do not infringe any patent, registered trademark or copyright and agrees to hold the County harmless in the event of any infringement or claim thereof. Additionally, seller warrants that the goods are free and clear of all liens and encumbrances and that seller has a good and marketable title to the same.
19. **HAZARDOUS CHEMICALS:** The seller shall ensure that each container of a hazardous chemical is labeled, tagged or marked with information required by OSHA's Hazard Communication Standard, Department of Transportation requirements, and any applicable EPA requirements. The seller shall ensure that the County is provided an appropriate current Material Safety Data Sheets (MSDS) with or prior to the initial shipment of a hazardous chemical, and with or prior to the first shipment after the MSDS is updated.
20. **NON-DISCRIMINATION:** The County does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the County are expected to fully comply with the County's non-discrimination policies.
21. **VERBAL AGREEMENT:** The County will not be bound by any verbal agreements.
22. **INDEPENDENT CONTRACTOR:** It is mutually understood and agreed the seller is an independent contractor and not an agent of the County, and as such, seller, his or her agents and employees shall not be entitled to any County employment benefits, such as but not limited to vacation, sick leave, insurance, worker's compensation, pension, or retirement benefits.
23. **GOVERNING LAW:** All terms and conditions shall be interpreted in accordance with the laws of the State of North Carolina. Any legal actions arising from default of this contract shall be brought only in the County of Henderson, State of North Carolina.
24. **PUBLIC RECORDS.** The seller acknowledges that notwithstanding any other provision to the contrary (including any statements regarding confidential information), this agreement, the confidential information and any documents, memorandum, data, reports, analyses, compilations, records, pricing and evaluation of all or any portion of the transactions contemplated by this agreement may be deemed public records and subject to disclosure, in whole or in part, pursuant to the North Carolina Public Records Law. The County will provide the seller with reasonably prompt notice of any intended disclosures or requests for disclosure pursuant to the North Carolina Public Records Law. The seller may then choose to seek judicial protection of the confidential information consistent with all applicable laws and regulations. Should a public records request be made for information the seller claims are proprietary in nature, the County will, within a reasonable time, notify the seller of such public records request. The seller shall, within five (5) business days of said notification, provide notice to the County that it does or does not object to the County disclosing the requested information pursuant to the subject public records request. If the seller objects to the disclosure of the requested information, the seller agrees that it shall be solely responsible for the defense of and the cost of defending any claim or complaint against the County for its refusal to disclose confidential information. The seller agrees that if any such complaint or claim is filed it will indemnify the County and will reimburse the County for any and all damages awarded against the County its refusal to disclose the requested information. The seller agrees that it releases the County from all loss, liability, claims or expense, including attorney's fees, arising out of or related to the release or disclosure or failure by the County to release or disclose confidential information. The seller further agrees that it waives the right to file any court action for any such release, disclosure, or failure to release or disclose confidential information.
25. **NON-APPROPRIATION:** No provision of any agreement between the County and the seller (the "Agreement") shall be construed or interpreted as creating a pledge of the faith and credit of the County within the meaning of any Constitutional debt limitation. No provision of the Agreement shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the County within the meaning of the Constitution of North Carolina. The Agreement shall not directly or contingently obligate the County to make any payments beyond those appropriated in the sole discretion of the County for any fiscal year in which the Agreement is in effect; provided, however, that any failure or refusal by the County to appropriate funds which results in the failure by the County to make any payment coming due under the Agreement will in no way obviate the occurrence of the event of default resulting from such nonpayment. No deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under this Agreement, and the taxing power

**Henderson County  
Terms and Conditions**

of the County is not and may not be pledged directly or indirectly or contingently to secure any moneys due under this Agreement. No provision of the Agreement shall be construed to pledge or create a lien of any class or source of the County's moneys, nor shall any provision of the Agreement restrict the future issuance of any of the County's bonds or obligations payable from any class or source of the County's moneys. To the extent of any conflict this provision and any other provision of the Agreement, this provision shall take priority and control.



ST# 3988214 - Henderson County health Dept.

Price Quote, as of 08/24/2022

Page 1 of 1

# McKESSON

## Empowering Healthcare

Prices reflected may not apply to all ship-to locations and are subject to vendor eligibility requirements and approvals

McKesson Medical-Surgical

Customer Svc Phone: (800) 874-2240

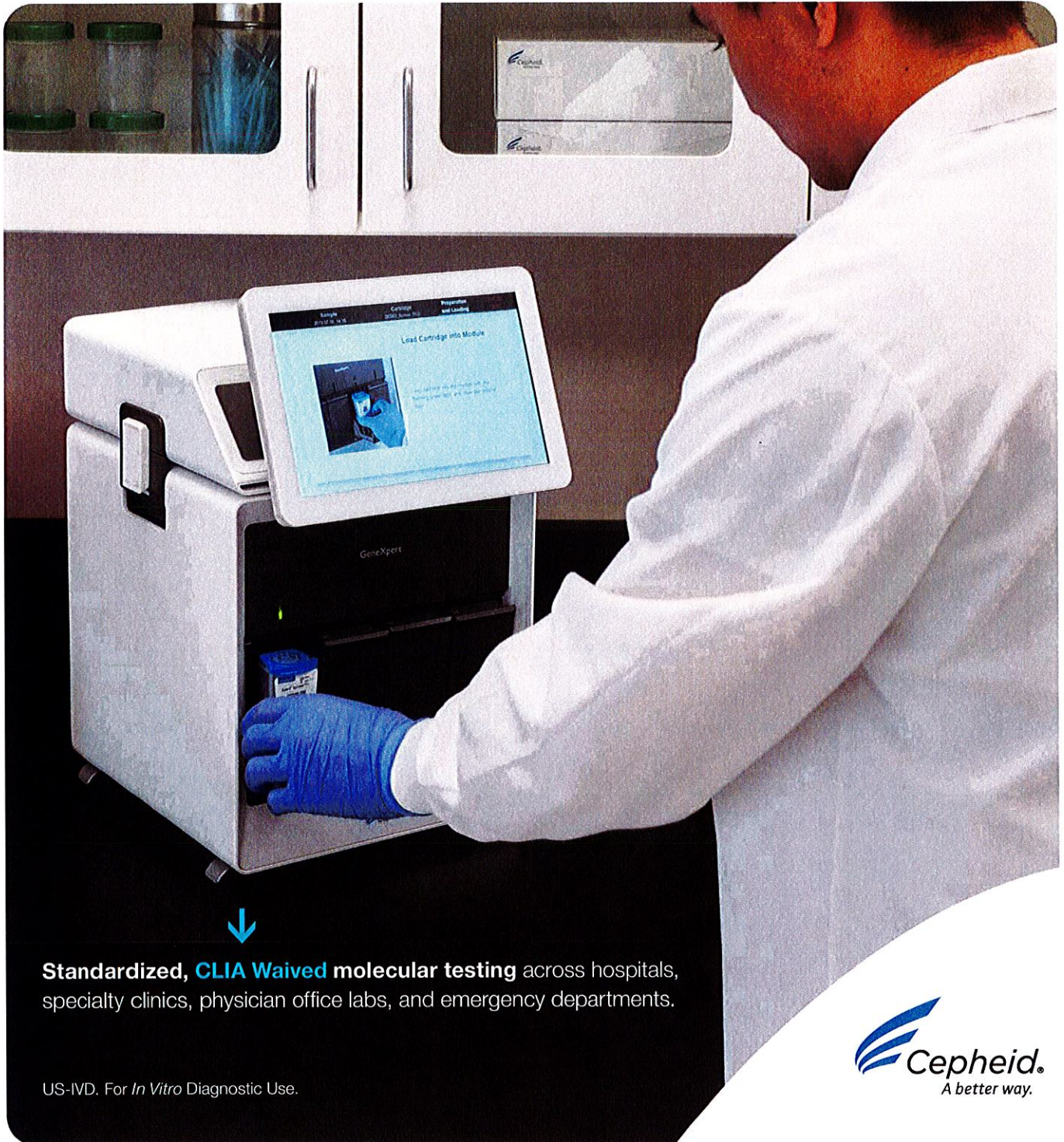
Customer Svc Fax: (866) 743-7465

Henderson County Health Dept. 828-692-4223  
 Of Public Health  
 1200 Spartanburg Hwy Suite 100  
 Hendersonville, NC 28792  
 Account Number: 3988212  
 Ship To Number: 3988214

Item Num	Qty	UOM	Vendor Abbr	Catalog Num	Full Item Desc	Price	Ext Price	Line Comment
1153473	1	EA	Cephid	GXIV-4-CLIA	Diagnostic System, Genexpert Xpress Iv 4module Configuration	\$26,687.50	\$26,687.50	Waived Analyzer
1016737	1	EA	Cephid	PRINTER-BW	Printer, B&w W/usb Cable F/genexpert Diag Sys	\$270.38	\$270.38	
1030777	1	EA	Cephid	850-0386	Power Supply, F/diagnostic System Univ D/s	\$1,076.09	\$1,076.09	
1080512	1	KT	Cephid	XPRSTREPA-1	Reagent, Xpert Xpress Strep A Us-lvd (10/kt) D/s	\$220.00	\$220.00	
1198255	1	KT	Cephid	XP3COV2/FLU	Test Kit, Cov-2/flu/rsv Plus Xpert Xpress (10/kt)	\$680.00	\$680.00	
1212776	1	KT	Cephid	XP3SARS-COV	Test Kit, Cov-2 Plus Xpert Xpress (10test/kt)	\$385.00	\$385.00	

# GeneXpert® Xpress

*CLIA Waived Molecular Testing Everywhere*



Standardized, **CLIA Waived** molecular testing across hospitals, specialty clinics, physician office labs, and emergency departments.

US-IVD. For *In Vitro* Diagnostic Use.





## GeneXpert® Xpress

### Compact Design

- **Scalable design** — 2-module and 4-module options available for customized throughput needs
- **Reduced footprint** — built in barcode scanner and touchscreen tablet
- **Random access** — true on-demand, walkaway testing system
- **Built-in redundancy** — each module operates as its own independent analyzer

### Simple, Integrated Workflow

- Run up to 4 tests at one time
- No specialized training or daily maintenance required
- Operator and QC lockout available
- Bi-directional interface to LIS (HL7, ASTM)
- Remote IT troubleshooting
- Simplified remote printing

### Simple Workflow and Proven Cartridge Technology

Simplified workflow – as easy as 1, 2, 3

- Single-use, self-contained cartridge reduces waste and risk of contamination
- Integrated QC in every cartridge
- Ability to standardize inventory management

**1**  
Obtain swab specimen

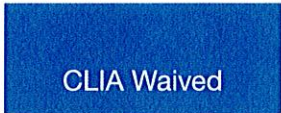


**2**  
Transfer sample to cartridge



**3**  
Insert cartridge and start test





# GeneXpert® Xpress Menu



All reagents can be stored at room temperature (2-28°C)



No confirmation required for negative results\*



## Xpert® Xpress Flu

CPT CODE: 87502-QW

Positive results in as soon as 20 minutes<sup>^</sup>

- Real-time RT-PCR molecular test results
- Sample Types — Nasal Swab, Nasopharyngeal Swab
- Detects viral RNA, enabling better detection of seasonal mutations of the flu virus

Performance	Positive Percent Agreement	Negative Percent Agreement
Influenza A	98.2%	97.9%
Influenza B	97.8%	99.5%



## Xpert® Xpress Flu/RSV

CPT CODE: 87631-QW†

Positive results in as soon as 20 minutes<sup>#</sup>

- One Cartridge. One Sample. Three Results
- Sample Types — Nasal Swab, Nasopharyngeal Swab
- Detects viral RNA, enabling better detection of seasonal mutations of the flu virus

Performance	Positive Percent Agreement	Negative Percent Agreement
Influenza A	98.1%	98.1%
Influenza B	100%	99.1%
RSV	98.4%	99.3%



## Xpert® Xpress Strep A

CPT CODE: 87651-QW

Positive results in as soon as 18 minutes<sup>^</sup>

- Confirmatory molecular test results\*
- Sample Type – Throat Swab (E-swab in liquid Amies)

Performance	Sensitivity	Specificity
Strep A	99.4%	94.1%

Coming Soon†

Xpert® Xpress CT/NG, Xpert® Xpress Multiplex Vaginal Panel, and Xpert® Xpress GBS

US-IVD. For In Vitro Diagnostic Use.

\* Follow-up testing by culture is required if the Xpert Xpress Strep A test result is negative and clinical symptoms persist, or there is an outbreak of acute rheumatic fever (ARF)\*

<sup>^</sup> With early assay termination (EAT) for positive results.

<sup>#</sup> With early assay termination (EAT) for positive Flu or for positive RSV only. Reporting negatives and combined Flu and RSV results in 30 minutes.

<sup>†</sup> The CPT for Flu/RSV (87631-QW) is reported when both targets are ordered by the clinician and performed. When only Flu is ordered and performed, CPT code 87502-QW is reported.

When Only RSV is ordered and performed, CPT code 87634 is reported.

<sup>‡</sup> The product information is intended to outline our general product direction and it should not be relied upon in making a purchasing decision as the development, release, and timing of any of our products remains at our discretion and is also subject to regulatory review.

## Xpert® Xpress Menu Information Catalog Number

Test Name	Description	Catalog Number
Xpert® Xpress Flu	10 Tests	XPRSFLU-10
Xpert® Xpress Flu/RSV	10 Tests	XPRSFLU/RSV-10
Xpert Nasal Sample Collection Kit	100 Nasal Swabs & UTM Kits	SWAB/F-100
Xpert Nasopharyngeal Sample	100 Nasopharyngeal Swabs & UTM Kits	SWAB/B-100
Xpert® Xpress Strep A	10 Tests	XPRSTREPA-10
Xpert® Xpress Strep A	120 Tests	XPRSTREPA-120
Collection and Transport Device	50 ESwab™ Liquid Amies Collection & Transport Devices	480CFA

## GeneXpert® Xpress Systems and Connectivity Specifications

System	Description	Instrument Dimensions	Catalog Number
GeneXpert® Xpress IV-2	2-module system	11.5" W x 18" H* x 16" D*	GXIV-2-CLIA
GeneXpert® Xpress IV-4	4-module system	11.5" W x 18" H* x 16" D*	GXIV-4-CLIA
	<b>LIS Connectivity</b>	<b>Data Management Middlewear<sup>^</sup></b>	
GeneXpert® Xpress	Bi-directional	RALS, Telcor, UniPOC, Aqure, RelayMed	

US-IVD. For *In Vitro* Diagnostic Use.

\* Average System Height and Depth based on touch screen angle.

<sup>^</sup> Please contact your sales representative for a full list of LIS and POC data management connectivity solutions.

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LESS  
doubt



MORE  
coverage



## MORE than a test

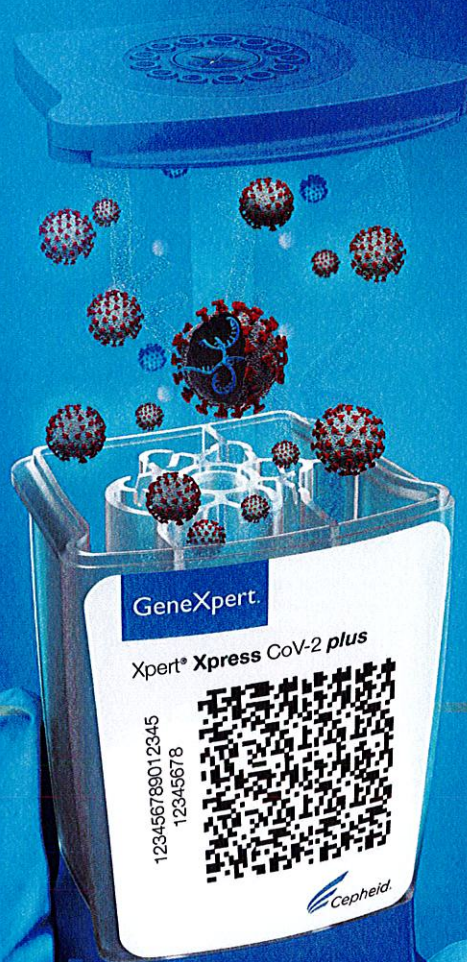
Introducing Xpert® Xpress CoV-2 *plus*®

When you need to know if it's COVID-19, choose a test that delivers more. One that provides actionable, rapid respiratory results to meet the challenges of the ongoing pandemic.

**Speed**, plus  
**Accuracy**, plus  
**Ease of use**

That's the **PCR<sub>plus</sub>** advantage.  
From Cepheid.

Visit [www.cepheid.com/coronavirus](http://www.cepheid.com/coronavirus)



## Speed, plus

The **NEW** Xpert® **Xpress** CoV-2 **plus** test provides fast and accurate results in as early as 20 minutes.<sup>^</sup> Get actionable, rapid respiratory results to meet the challenges of the ongoing pandemic.

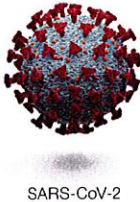
Quick results enable faster time to diagnose and treat for better patient care.

## Accuracy, plus

Viruses constantly change through mutation, and these mutations can give rise to new variants with unique characteristics. Cepheid has proactively addressed this increasing diversity by enhancing gene coverage.

The **NEW** Xpert **Xpress** CoV-2 **plus** test provides a third gene target for SARS-CoV-2 as well as an optimization of nucleocapsid gene probes to enable more reliable virus detection.

In the **NEW** Xpert **Xpress** CoV-2 **plus** test, the addition of a primer/probe sets for the detection of a third SARS-CoV-2 target, RdRP, will add further **redundancy for greater confidence in detection**.



SARS-CoV-2

### Gene Targets

#### SARS-CoV-2

**RdRP** RNA-dependent RNA polymerase gene

**E** Envelope protein gene

**N2** Nucleocapsid gene

## Peace of mind

Molecular methods targeting **multiple gene targets** within the viral genome allow for more reliable detection of strains undergoing genetic variation.<sup>#</sup>

Choose the  
**PCR<sup>plus</sup>** advantage.  
Get **MORE** than results.

The **NEW** Xpert **Xpress** CoV-2 **plus** test has been designed to give healthcare providers **lab-quality results in a point-of-care test**, plus a simplified workflow for testing symptomatic and asymptomatic<sup>†</sup> patients.

\* This product has not been FDA cleared or approved, but has been authorized by FDA under an EUA for use by authorized laboratories; This product has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens; and the emergency use of this product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or authorization is revoked sooner.

<sup>^</sup> With early assay termination for positive results; otherwise, the full test runtime is approximately 30 minutes.

<sup>#</sup> Tests with multiple targets are more likely to continue to perform as described in the test's labeling as new variants emerge. Multiple targets means that a molecular test is designed to detect more than one section of the SARS-CoV-2 genome.\* <https://www.fda.gov/medical-devices/coronavirus-covid-19-and-medical-devices/sars-cov-2-viral-mutations-impact-covid-19-tests>

<sup>†</sup> PPA and NPA for asymptomatic specimens were calculated using anterior nasal swab specimens.

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**Bid Tabulation**

**Formal Bid: Purchase or Rental of Medical Testing Machine**

**Opened Friday, August 26, 2022 at 3:00PM EST**

Vendor Name	Procurement Options		COST OF TESTING SUPPLIES					TOTAL COST BY OPTION	
	PURCHASE OPTION OF EQUIPMENT	RENTAL OPTION OF EQUIPMENT	FLU	FLU/RSV	STREP A	COVID-19	COVID-19/FLU/RSV	PURCHASE OPTION	RENTAL OPTION
MCKESSON	\$ 26,687.50	NO BID	NO BID	NO BID	\$ 4,400.00	\$ 19,250.00	\$ 34,000.00	\$ 84,337.50	NO BID
Engaged Healthcare Solutions	\$ 14,917.00	\$ -	\$ 99,488.00	NO BID	\$ 61,214.00	\$ 215,600.00	\$ 377,400.00	\$ 768,619.00	\$ 753,702.00