

**FIRST AMENDMED INTERGOVERNMENTAL  
AGREEMENT BETWEEN THE ILLINOIS  
DEPARTMENT OF PUBLIC HEALTH AND  
THE CITY OF AURORA**

The Illinois Department of Public Health (IDPH) and the City of Aurora (City), pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, hereby enter into this Intergovernmental Agreement (Agreement) in connection with the provision of COVID-19 testing services by IDPH, and are collectively referred to herein as “Parties” or individually as a “Party.”

**ARTICLE I  
INTRODUCTION**

1.1 Background. IDPH is state Agency managing COVID-19 testing at community-based testing sites (CBTS) located throughout the state of Illinois. IDPH has operated a CBTS in Aurora, Illinois since April 2020. IDPH is looking for a new COVID-19 testing site in Aurora to continue offering no cost testing. The City has available space to enable IDPH to operate a drive-thru testing facility at the City’s two lots located on North Farnsworth Avenue, (the “Premises” as more particularly described below).

1.2 Purpose. In light of the COVID-19 pandemic, City agrees to provide to IDPH, and IDPH agrees to accept from City, use of the Premises in order to render assistance in the State’s response to COVID-19. This Agreement specifies the relevant responsibilities of the Parties with respect to the rendering of such assistance.

**ARTICLE II  
PREMISES AND DUTIES AND OBLIGATIONS OF THE CITY**

2.1 The Premises. The Premises is located on City owned lots at 2500, 2380/2450 North Farnsworth Road, as well as on a privately owned lot at 2340 N Farnsworth Ave. (See Exhibit 1 attached hereto).

2.2 Use of the Premises. City hereby grants to IDPH, upon the terms and conditions which hereinafter appear, the right to use the Premises in the manner set forth in Articles I, II and III of the Agreement. City shall provide use of the Premises in “as is” condition, without any representations or warranties.

2.2.1 The City agrees to restore Premises to such condition that allows cars to drive on the premise and queue for testing.

2.2.2 The City agrees to provide snow removal and salting services during inclement weather for the months of November through April.

2.2.3 Upon mutual agreement of the parties in writing, the City agrees to provide signage for COVID-19 testing.

2.2.4 The City agrees to make other improvements to the Premises, including but not limited to lighting and electrical work, when mutually agreed to by both parties in writing.

2.4 Rights to Use. IDPH, its employees, agents, and testing services recipients shall have the right to use, in common with other entitled parties: sidewalks, and such other areas in and serving the

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land on which the Premise are located as are designated for common use subject to any restrictions of record and to reasonable rules and regulations for the use thereof.

### ARTICLE III DUTIES AND OBLIGATIONS OF IDPH

3.1 Permitted Use of the Premises. IDPH shall use the Premises solely for purposes of a drive-thru COVID-19 testing facility during the following hours: 6:00 a.m. – 7:00 p.m.

3.2 Permitted Use Requirements. IDPH shall not use the Premises in violation of any statute, regulation, rule or order of any governmental body, having jurisdiction over IDPH or City, or create or allow to exist any nuisance or trespass, or do any act in or about the Premises, or deface or injure the Premises. IDPH will not make any modifications to the Premises without the prior written consent of the City.

3.3 Return of Premises. At the conclusion of the term of this Agreement, IDPH shall return the Premises to the City in substantially the same condition, ordinary wear and tear excepted.

3.4 Consultation with City. IDPH and its employees, agents or vendors agree to consult with City regarding management of traffic flow in and out of the Premises and in other respects to secure the smooth operation of the testing facility and with minimal disruption. A traffic flow overview is included in Exhibit 1 attached hereto.

3.5 Removal of Waste. IDPH shall keep the Premises in reasonably clean and sanitary condition at all times, and shall be solely responsible for handling and removal of all waste generated at the Premises pursuant to testing and specimen collection activities, which IDPH shall handle and remove in accordance with all applicable laws and regulations.

### ARTICLE IV EXPENDITURE OF FUNDS

4.1 Expenditures. The Parties agree to the following payments and expenditures for the use of the Premises under this Agreement.

4.2 IDPH agrees to reimburse an amount not to exceed \$7500 to the City for the restoration cost of the premises specified in paragraph 2.2.1.

4.3 IDPH agrees to reimburse an amount not to exceed \$1500 per month to the City for the cost of snow removal between the months of November and April.

4.4 IDPH agrees to reimburse the City for any signage provided pursuant to paragraph 2.2.3.

4.5 IDPH agrees to reimburse the City for any other improvements to the premises made pursuant to paragraph 2.2.4.

4.6 The Parties agree, that except as provided in this Article, there will be no payments or expenditures for the use of the Premises.

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### ARTICLE V TERM

5.1 Initial Term. This Agreement shall become effective upon final execution by the Parties, and shall continue through March 31, 2021, unless terminated earlier as provided for herein or extended by mutual written.

5.2 Renewal. This Agreement may be renewed for additional periods by mutual agreement of the Parties, expressed in writing and signed by the Parties. Any renewal is subject to the same terms and conditions as this Agreement unless otherwise provided in the renewal document. This Agreement will neither automatically renew nor renew at the sole option of either Party.

### ARTICLE VI TERMINATION

6.1 Termination on Notice. This Agreement may be terminated by either Party for any reason, including without limitation, for a material breach, or for the convenience of either Party in the exercise of its sole discretion, upon 15 days' prior written notice to the other Party.

### ARTICLE VII MISCELLANEOUS

7.1 Amendments. This Agreement may be modified or amended at any time during its term by mutual agreement of the Parties, expressed in writing and signed by the Parties. The Mayor is expressly authorized on behalf of the City to agree to subsequent modifications or amendments to sections 4.3 and 5.1 and execute written amendments to that effect.

7.2 Applicable Law and Severability. This Agreement shall be governed in all respects by the laws of the State of Illinois. If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, ordinance, rule of law or public policy, or for any reason, such circumstance shall not have the effect of rendering any other provision or provisions contained herein invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof. In the event that this Agreement is determined to be invalid by a court of competent jurisdiction, it shall be terminated immediately.

7.3 Records Retention. The Parties shall maintain for a minimum of six (6) years from the later of the date of final payment under this Agreement, or the expiration of this Agreement, adequate books, records and supporting documents. If an audit, litigation or other action involving the records is begun before the end of the five-year period, the records shall be retained until all issues arising out of the action are resolved.

7.4 Liability. No member, trustee, official, officer, director, employee or agent of either Party shall be individually or personally liable to the other Party in connection with this Agreement. It is understood and agreed that neither Party to this Agreement shall be liable to the other Party for any negligent acts, either of commission or omission, unless such liability is imposed by law.

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7.5 Assignment; Binding Effect. This Agreement, or any portion thereof, shall not be assigned by either Party without the prior written consent of the other Party. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and permitted assigns.

7.6 Precedence. In the event there is a conflict between this Agreement and any of the exhibits hereto, this Agreement shall control. In the event there is a conflict between this Agreement and relevant statute(s) or Administrative Rule(s), the relevant statute(s) or rule(s) shall control.

7.7 Entire Agreement. This Agreement constitutes the entire agreement between the Parties; no promises, terms, or conditions not recited, incorporated or referenced herein, including prior agreements or oral or written discussions, shall be binding upon either Party.

7.8 Notices. All written notices, requests and communications may be made by electronic mail to the e-mail addresses set forth below.

To IDPH: Illinois Department of Public Health  
Attn: General Counsel  
535 W. Jefferson St.  
Springfield, IL 62761  
Phone: (217) 782-4977

To City: City of Aurora  
Attn: Law Department  
44 E. Downer Place  
Aurora, IL 60507  
Phone: (630)-256-3060

7.9 Freedom of Information Act. This Agreement and all related public records maintained by, provided to or required to be provided to the State or to the City, are subject to the Illinois Freedom of Information Act notwithstanding any provision to the contrary that may be found in this Agreement.

7.10 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

7.11 Insurance. Each Party shall, at all times during the term of this Agreement and any renewals, maintain general liability insurance, whether through a commercial policy or a program of self-insurance with minimum limit of \$1 million per claim or occurrence and \$2 million aggregate. Any state contractors shall add the City of Aurora as an additional insured to their policy. Each Party shall comply with applicable state laws governing workers' compensation and mandatory insurance for vehicles. Upon request, each Party shall provide to the other a certificate of insurance evidencing the coverage and limits required by this Section.

7.12 Time is of the Essence. Time is of the essence with respect to the Party's performance under this Agreement.

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7.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Further, duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Format (PDF) document shall be deemed original for all purposes.

7.14 Operation of Programs. The Parties' respective programs and operations are to function as complete separate entities, with no overlap of authority, duties, or responsibilities other than those contained in this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**THE CITY OF AURORA**

\_\_\_\_\_  
Richard C. Irvin  
Mayor

Date: \_\_\_\_\_

**ILLINOIS DEPARTMENT OF PUBLIC HEALTH**

\_\_\_\_\_  
Ngozi O. Ezike MD  
Director

Date: \_\_\_\_\_