

**PARTNERSHIP FOR THE BAY'S FUTURE FELLOWSHIP
DONOR SERVICES AGREEMENT**

between the City and County of San Francisco acting by and through its Mayor's Office
of Housing and Community Development

and

Coro Northern California

This DONOR SERVICES AGREEMENT (this "Agreement") is made by and entered to on _____, 2022, by and between the City and County of San Francisco, a municipal corporation (the "City") represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (the "Department"), and Coro Northern California, a California nonprofit public benefit corporation ("Donor").

RECITALS

WHEREAS, The Partnership for the Bay's Future ("PBF") Fellowship, a two year program that is an initiative of Donor, matches Donor's employees (each a "Fellow") with local governments to address specific affordable housing policy (the "Program"). Under the Program, the Donor may donate consulting services free of charge to such local governments to help develop cutting-edge strategies and solutions to produce and preserve affordable housing for the local government.

WHEREAS, the Department seeks volunteer consulting services under the Program to help address the following policy proposal ("the Project"): To review and modify Department's current investment policies around affordable housing development and preservation, to advance and increase participation by Black and Brown affordable housing community-based developers in the City (the "Project").

WHEREAS, Donor proposes to donate to the Department consulting services for the Project under the Program free of charge as a gift-in-kind with a monetary value of \$250,000 ("Donor Services").

WHEREAS, Donor and the City have entered into that certain Memorandum of Understanding with the San Francisco Foundation as of the date herewith setting forth each parties duties under the Program ("the MOU").

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises set forth herein, the parties hereto agree as follows:

1. Description of Donor Services.

Donor will provide free consulting services through a Fellow on a volunteer basis to the Department for the Project over an approximately two-year period expected to run between June 1, 2022 and May 31, 2024. The Fellow will be considered an unpaid intern by the City, and the Fellow will comply with all policies and procedures of the City as an unpaid intern.

Donor Services will include a benchmarking analysis, stakeholder analysis and recommendations for the Project over the course of two years with an average of 35-40 hours a week. At the end of the Project, the Donor will provide Department with documentation of work. The parties acknowledge and agree that deliverables provided under this Agreement are subject to applicable public disclosure laws, including the City's Sunshine Ordinance. The monetary value of the donation is \$250,000.

Unless specifically agreed upon in advance by Department, all work product and deliverables prepared in whole or in part by Donor under this Agreement shall be the property of City. However, Donor may retain and use copies for reference and as documentation of the volunteer experience and capabilities.

If, in connection with Donor Services, Donor creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Donor under this Agreement are not works for hire under U.S. law, Donor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Donor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

Department hereby agrees to accept Donor Services, and will use its discretion in deciding how to deploy or implement Donor Services. The parties acknowledge and agree that Donor Services are for the benefit and use of the City, without restriction.

Donor and Department acknowledge and agree that the Program will not be used for the Department's general acquisition of goods and services otherwise subject to the requirements of the San Francisco Administrative Code. Nothing in this Agreement shall prohibit Donor from participating in a competitive solicitation or otherwise contracting with City or Department to provide City with goods or services if done in compliance with all applicable City procurement and solicitation rules, regulations, policies, and procedures and all applicable conflict-of-interest laws. If Donor is instrumental in developing the scope of work for a future procurement, then the Donor is prohibited from bidding on that future procurement. The Donor acknowledges and agrees that under certain laws, including California Government Code section 1090, involvement in preparing for a procurement may disqualify a Donor from participating in a later competitive bid process or from having any direct communication with or receiving any compensation or other benefit from a bidder, contractor, or vendor with respect to a resulting procurement.

2. No Employment Relationship.

Donor acknowledges and agrees that providing Donor Services through a Fellow for the City does not create any employment relationship for Donor or a Fellow or

expectation of a future employment relationship between Fellow and the City or its Department. Donor acknowledges and agrees that the City may, in its sole discretion, provide Fellow with access to certain City resources but that the provision of such access shall in no way be construed as creating, or giving rise to, any employment relationship. The City may reject Donor Services at any time without notice or hearing or cause.

The City or Department will not provide any compensation of any kind to Donor or a Fellow for Donor Services provided under this Agreement, and no expenses of any kind will be reimbursed. No Fellow shall represent or hold him or herself out to be an employee of the City at any time. Donor or its board members, officers, employees, or agents shall not represent or hold itself out to be an employee of the City at any time.

Prior to beginning the Donor Services, a Donor and Fellow shall execute an acknowledgement, in a form acceptable to the City, that such Fellow is not an employee of the City.

3. Proprietary or Confidential Information of City.

If this Agreement requires City to disclose "Private Information" to Donor within the meaning of San Francisco Administrative Code Chapter 12M, Donor and Donor's employees, including a Fellow, shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Donor Services. Donor is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of Donor Services, Donor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Donor, such information must be held by Donor in confidence and used only in performing the Agreement. Donor shall exercise the same standard of care to protect such information as a reasonably prudent business entity would use to protect its own proprietary or confidential information.

The City or Department shall not make available to Donor access to City information system networks that are not available to the public without the consultation (and approval) of the City's Chief Information Security Officer.

The City or Department shall not make available to Donor Protected Health Information ("PHI"), which means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an company; the provision of health care to an company; and (ii) that identifies the company or with respect to where there is a reasonable basis to believe the information can be used to identify the company, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information (45 C.F.R. Sections 160.103, 164.501). In the event that PHI is inadvertently produced to Donor, Donor shall immediately return the PHI and shall not use or disclose the PHI in any manner.

4. **Workers Compensation and Insurance.** Donor acknowledges and agrees that the City is not obligated to and does not carry any insurance for Donor or a Fellow, and any condition, illness or injury that a Fellow suffers in the performance of Donor Services shall be covered by Donor's insurance. Donor will procure and maintain during the full term of this Agreement: (a) workers' compensation insurance of no less than statutory amounts with employer's liability limits not less than One Million Dollars (\$1,000,000) each accident; and (b) commercial general liability insurance, with limits of not less than One Million Dollars (\$1,000,000) each occurrence and Two Million (\$2,000,000) aggregate, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; broad form property damage; explosion, collapse and underground (XCU); products and completed operations. Coro shall obtain a policy endorsement naming the City as an additional insured under such policies.

5. **Use of City and County Property for Business Purposes Only.** All City equipment, devices, materials, supplies, furnishings (e.g., photocopiers, telephones, computers, printers, vehicles, stationary, fax machines) must be used only to conduct City business. Use of City property for personal, political, or other non-City business is strictly prohibited and could lead to the City's rejection of further Donor Services from Donor.

6. **Indemnity.**

Donor agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from any and all acts, claims, omissions, liabilities and losses by whomever asserted arising out of acts or omissions of Donor in the performance of the Donor Services to be provided under this Agreement, except those arising by reason of the sole negligence of the City, its officers, employees and agents. Donor agrees that it has additional indemnity obligations under the MOU as the Fellow's employer.

Donor also agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from any and all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Donor's services under this Agreement.

City agrees to defend, indemnify and hold harmless Donor from any and all acts, claims, omissions, liabilities and losses by whomever asserted arising out of acts or omissions of City in its obligations under this Agreement, except those arising by reason of the sole negligence of Donor.

In the event of concurrent negligence of City, its officers, employees and agents, and Donor, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

If there is any conflict between this Section 6 and the MOU, the obligations under this Section 6 shall control.

7. Damages.

Notwithstanding anything to the contrary contained in the MOU, City and Coro agree that Section IX of the MOU regarding damages shall not apply under this Agreement or the MOU. Each party reserves any rights and remedies under law or equity.

8. Effective Date; Term; Termination.

The effective date of this Agreement shall be _____, 2022. The term of this Agreement shall commence on the effective date, and shall end on _____, 2024. Either party may terminate this Agreement with 90 days advance written notice, for convenience and without cause, by giving the other party 90 days advance written notice of termination, provided that City may reject Donor Services at any time without cause.

9. Notices. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To Mayor's Office of Housing and Community Development:
Eric Shaw, Director
1 South Van Ness, San Francisco, CA 94103

To Donor: Coro Northern California
Laney Whitcanack, CEO
lwhitcanack@coronorcal.org

Either party may change the address to which notice is to be sent by giving written notice thereof to the other party. .

10. Modification. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by Donor and the City in the same manner as this Agreement.

11. Governing Law; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California and the City's Charter and Municipal Code, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

12. Entire Agreement. This Agreement and the MOU set forth the entire Agreement between the parties, and supersede all other oral or written provisions.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

CITY: _____

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, represented by the Mayor, acting by and through the Mayor's Office Of Housing And Community Development

By: _____
ERIC D. SHAW
DIRECTOR

DONOR: _____

<<CORO NORTHERN CALIFORNIA>

By: _____
JAMES WEINBERG
CEO

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney