



1 [Accept and Expend Grant - Enhancing PrEP in Community Setting - \$118,761].

2  
3 **Resolution retroactively authorizing the Department of Public Health to accept and**  
4 **expend a grant in the amount of \$118,761 from Public Health Foundation Enterprises,**  
5 **Inc., to participate in a program entitled “Enhancing PrEP in Community Setting” for**  
6 **the period of July 1, 2014, through June 30, 2015.**

7  
8 WHEREAS, Public Health Foundation Enterprises, Inc. is the recipient of a grant award  
9 from National Institutes of Health supporting the Enhancing PrEP in Community Setting  
10 (EPIC) grant; and

11 WHEREAS, With a portion of these funds, Public Health Foundation Enterprises, Inc.  
12 has subcontracted with Department of Public Health (DPH) in the amount of \$118,761 for the  
13 period of July 1, 2014, through June 30, 2015; and

14 WHEREAS, As a condition of receiving the grant funds, Public Health Foundation  
15 Enterprises, Inc., requires the City to enter into an agreement (Agreement), a copy of which is  
16 on file with the Clerk of the Board of Supervisors in File No. 150124; which is hereby declared  
17 to be a part of this Resolution as if set forth fully herein; and

18 WHEREAS, The purpose of this project will oversee the creation of study plans for  
19 EPIC and draft study related materials including data collection forms and adapt the SMS  
20 telephone support intervention for use at the STD clinic, create standard of care counseling  
21 protocols and develop training manuals for EPIC staff; and

22 WHEREAS, An Annual Salary Ordinance amendment is not required as the grant  
23 partially reimburses DPH for three existing positions, one Senior Physician Specialist (Job  
24 Class No. 2232) at .075 FTE, one Manager VIII (Job Class No. 0943) at .025 FTE, and one  
25

1 Senior Physician Specialist (Job Class No. 2232) at .30 FTE for the period of July 1, 2014,  
2 through June 30, 2015; and

3 WHEREAS, A request for retroactive approval is being sought because DPH did not  
4 receive notification of the award until October 24, 2014, for a project start date of July 1, 2014;  
5 and

6 WHEREAS, The budget includes a provision for indirect costs in the amount of  
7 \$17,439; now, therefore, be it

8 RESOLVED, That DPH is hereby authorized to retroactively accept and expend a grant  
9 in the amount of \$118,761 from Public Health Foundation Enterprises, Inc.; and

10 FURTHER RESOLVED, That DPH is hereby authorized to retroactively accept and  
11 expend the grant funds pursuant to San Francisco Administrative Code section 10.170-1; and,  
12 be it

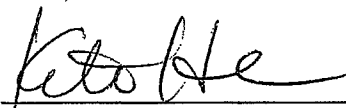
13 FURTHER RESOLVED, That the Director of Health is authorized to enter into the  
14 Agreement on behalf of the City.

15  
16 RECOMMENDED:

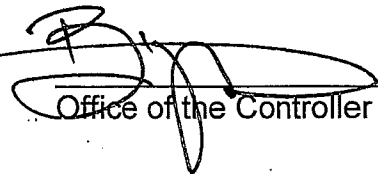
17 

18 \_\_\_\_\_  
19 Barbara A. Garcia, MPA  
20 Director of Health

APPROVED:

21 

22 \_\_\_\_\_  
23 Office of the Mayor

24 

25 \_\_\_\_\_  
Office of the Controller

File Number: \_\_\_\_\_  
(Provided by Clerk of Board of Supervisors)

**Grant Resolution Information Form**  
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Enhancing PrEP in Community Setting (EPIC)**

2. Department: **Bridge HIV**

3. Contact Person: **Martin Soto** Telephone: **437-7407**

4. Grant Approval Status (check one):

Approved by funding agency

Not yet approved

5. Amount of Grant Funding Approved or Applied for: **\$118,761**

6a. Matching Funds Required: **\$0**

b. Source(s) of matching funds (if applicable):

7a. Grant Source Agency: **National Institute of Health (NIH)**

b. Grant Pass-Through Agency (if applicable): **Public Health Foundation Enterprises, Inc (PHFE)**

8. Proposed Grant Project Summary:

**Dr. Buchbinder will participate actively in data collection instrument development, data analyses and manuscript writing and provide senior level mentorship to Dr Liu as a new investigator applicant. Dr. Fuchs will work with Dr. Liu (PI) to oversee the creation of study plans for EPIC and draft study related materials including data collection forms. Dr. Fuchs will lead efforts to adapt the SMS telephone support intervention for use at the STD clinic, create standard of care counseling protocols and develop training manuals for EPIC staff. Dr. Fuchs will also assume a lead role in data analyses and manuscript development and be responsible for preparation of Project progress reports.**

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: **07/01/2014**

End-Date: **06/30/2015**

10a. Amount budgeted for contractual services: **\$0**

b. Will contractual services be put out to bid? **No**

c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements?

d. Is this likely to be a one-time or ongoing request for contracting out?

11a. Does the budget include indirect costs?  Yes  No

b1. If yes, how much? **\$17,439**

b2. How was the amount calculated? **24.02% of salaries**

c1. If no, why are indirect costs not included?

- Not allowed by granting agency
- Other (please explain):

To maximize use of grant funds on direct services

c2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:

**We respectfully request for approval to accept and expend these funds retroactive to July 1, 2014. The Department received the letter of funding allocation on October 24, 2014.**

**GRANT CODE (Please include Grant Code and Detail in FAMIS): HCAO49/14**

**\*\*Disability Access Checklist\*\*\*(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s)      | <input checked="" type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s)       | <input type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s)                 |
| <input type="checkbox"/> New Site(s)                 | <input type="checkbox"/> New Structure(s)           |   |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:


Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Ron Weigelt  
(Name)

Director of Human Resources and Interim Director, EEO, and Cultural Competency Programs  
(Title)

Date Reviewed: January 13, 2015

  
(Signature Required)

**Department Head or Designee Approval of Grant Information Form:**

Barbara A. Garcia, MPA  
(Name)

Director of Health  
(Title)

Date Reviewed: 1/15/15

  
(Signature Required)

**DETAILED BUDGET FOR INITIAL BUDGET PERIOD  
DIRECT COSTS ONLY**

FROM

THROUGH

7/1/2014

6/30/2015

PERSONNEL <i>(Applicant organization only)</i>					DOLLAR AMOUNT REQUESTED <i>(omit cents)</i>		
NAME	ROLE ON PROJECT	TYPE APPT. (months)	% EFFORT ON PROJ.	INST. BASE SALARY	SALARY REQUESTED	FRINGE BENEFITS	TOTAL
Albert Liu	Principal Investigator	12	30.0%	181,500	54,450	22,869	77,319
Susan Buchbinder	Co-Investigator	12	2.5%	181,500	4,538	1,497	6,035
Jonathan Fuchs	Co-Investigator	12	7.5%	181,500	13,613	4,356	17,969
<b>SUBTOTALS</b> →					<b>72,600</b>	<b>28,722</b>	<b>101,322</b>

CONSULTANT COSTS 0

EQUIPMENT *(Itemize)* 0

SUPPLIES *(Itemize by category)* 0

TRAVEL 0

PATIENT CARE COSTS	INPATIENT	0
	OUTPATIENT	0

ALTERATIONS AND RENOVATIONS *(Itemize by category)* 0

OTHER EXPENSE *(Itemize by category)* 0

CONSORTIUM/CONTRACTUAL COSTS	DIRECT COSTS	
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<b>SUBTOTAL DIRECT COST FOR INITIAL BUDGET PERIOD</b> <i>(Item 7a, Face Page)</i>	<b>\$101,322</b>
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CONSORTIUM/CONTRACTUAL COSTS	FACILITIES AND ADMINISTRATIVE COSTS	17,439
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<b>TOTAL DIRECT COSTS FOR INITIAL BUDGET PERIOD</b>	<b>\$118,761</b>
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**SBIR/STTR Only: FIXED FEE REQUESTED**

San Francisco Department of Public Health (SFDPH)  
AIDS Office  
HIV Research Section  
Enhancing PrEP in Community Setting (EPIC)

July 1, 2014 to June 30, 2015  
BUDGET JUSTIFICATION

A. PERSONNEL  
B. MANDATORY FRINGE

1. 0.075 2232 - Sr. Physician Specialist: J. Fuchs

Co-Principal Investigator  
Annual Salary  $\$181,500 \times 0.075$  FTE for 12 months =  $\$13,613$   
Mandatory Fringe Benefits @ 32% =  $\$4,356$

\$17,969

Dr. Fuchs will work with Dr. Liu (PI) to oversee the creation of study plans for EPIC and draft study related materials including data collection forms

2. 0.025 0943 – Manager VIII: Susan Buchbinder

Co-Principal Investigator  
Annual Salary  $\$181,500 \times 0.025$  FTE for 12 months =  $\$4,538$   
Mandatory Fringe Benefits @ 33% =  $\$1,497$

\$6,035

Dr. Buchbinder will participate actively in data collection instrument development, data analyses and manuscript writing and provide senior level mentorship to Dr Liu as a new investigator applicant.

3. 0.30 2232 - Sr. Physician Specialist: A. Liu

Co-Principal Investigator  
Annual Salary  $\$181,500 \times 0.30$  FTE for 12 months =  $\$54,450$   
Mandatory Fringe Benefits @ 42% =  $\$22,869$

\$77,319

Dr. Fuchs will work with Dr. Liu (PI) to oversee the creation of study plans for EPIC and draft study related materials including data collection forms

Total Personnel:	\$101,322
Total Salaries	\$72,600
Total Fringe	\$28,722
<b>TOTAL PERSONNEL:</b>	<b>\$101,322</b>
<b>C. INDIRECT COST (24.02% of direct cost)</b>	<b>\$17,439</b>
<b>TOTAL BUDGET:</b>	<b>\$118,761</b>

Public Health  
Foundation  
Enterprises

**[SUBCONTRACT/SUBAWARD] AGREEMENT BETWEEN  
PUBLIC HEALTH FOUNDATION ENTERPRISES, INC.**

**AND  
THE CITY AND COUNTY OF SAN FRANCISCO**

This [Subcontract/Sub-Award] Agreement (this "Agreement") is made and entered into as of October 21, 2014 by and between PUBLIC HEALTH FOUNDATION ENTERPRISES, INC., a 501(c)(3) California nonprofit corporation (hereinafter referred to as "PHFE"), and the party identified in Section 1 below (hereinafter be referred to as "Subcontractor/Subawardee").

**RECITALS**

A. PHFE has been granted an award by the National Institutes of Health (the "Funding Agency"), under contract number 5R01MH095628-04 (the "Funding Award Agreement") and the Federal Award Identification Number (FAIN) R01MH095628 under which PHFE and its subcontractors and subawardees will provide services as outlined in Exhibit A (the "Program");

B. Subcontractor/Subawardee has expertise in the areas of See exhibit A, which expertise can assist PHFE to perform its obligations under the Funding Award Agreement; and

C. PHFE desires to engage the services of Subcontractor/Subawardee to assist PHFE in the performance of certain of its obligations under the Funding Award Agreement as set forth herein.

**AGREEMENT**

**1. IDENTITIES OF PARTIES.**

**SUBCONTRACTOR/SUBAWARDEE:** Please complete:

Legal Name of Subcontractor/Subawardee: The City and County of San Francisco

DBA of Subcontractor/Subawardee: SFDPH

Type of Entity:           Sole Proprietorship           Partnership  
                                  Corporation                           Limited Liability Company

State of Organization (if an entity): California



Address: 1380 Howard Street, 5<sup>th</sup> Floor  
City/State/Zip: San Francisco, CA 94103  
Business Telephone: 415-392-2850  
Social Security or Employer Identification Number: 94-6000417  
License Number and Expiration Date, if any: \_\_\_\_\_  
Email Address: sajid.shaikh@sfdph.org

Name of Principal Investigator/Project Coordinator: Albert Liu, MD

Phone Number of Principal Investigator/Project Coordinator: 415-437-7408

Is Subcontractor/Subawardee required to file a Single Audit with the Federal Government?  
(Required for parties who receive Federal funds in the aggregate amount of \$500,000 or  
more): Please complete:

XX Yes      No

If yes, has Subcontractor/Subawardee filed the required Single Audit?

XX Yes      No

(If yes, submit copy to PHFE prior to signing this Agreement) [http://www.sfcontroller.org/  
index.aspx?page=402](http://www.sfcontroller.org/index.aspx?page=402)

PHFE:

Public Health Foundation Enterprises, Inc.  
12801 Crossroads Parkway South, Suite 200  
City of Industry, CA, 91746-3505  
Main Telephone Number (562) 699-7320

Program Name: Enhancing PrEP in Community Settings (EPIC)

Program/CID #: 2417.004.001 (One per agreement)

Contracts Manager Name: Rochelle McLaurin

Contracts Manager Email Address: RMcLaurin@phfe.org 562-222-7883

Program Director Name: Albert Liu Telephone Number: (415) 437-7408

Program Director Email: Albert.Liu@sfdph.org

2. SCOPE OF SERVICES.

(a) Services. Subcontractor/Subawardee shall perform the services, duties and obligations set forth in the Statement of Work ("SOW") attached as Exhibit A hereto, which is made a part hereof and incorporated herein by reference (the "Services"). The Services relate to Sections Exhibit C and n/a of the Funding Award Agreement. Subcontractor/Subawardee shall perform the Services in accordance with the specifications, timetables and requirements set forth in the SOW and this Agreement. PHFE may, in its discretion, provide to Subcontractor/Subawardee a copy of the Funding Award Agreement or the relevant sections thereof. If Subcontractor/Subawardee is provided with a copy of the Funding Award Agreement or the relevant sections thereof, Subcontractor/Subawardee shall carefully review them and shall perform the Services in accordance with the specifications, timetables and requirements set forth therein.

(b) Location(s) of Services. Subcontractor/Subawardee shall perform the Services at the following location(s): Please complete:

25 Van Ness Avenue, 1<sup>st</sup> Floor

San Francisco, CA 94102

(c) Subcontractor/Subawardee Principal Investigator/Project Coordinator. Subcontractor/Subawardee shall appoint the Principal Investigator/Project Coordinator (the "PI") identified above to be primary point of contact with PHFE and the Funding Agency with respect to the Services and to have primary responsibility within Subcontractor's/Subawardee's organization for the performance of the (technical or programmatic) aspects of the Services. Subcontractor/Subawardee shall not replace or reassign the PI without PHFE's and the Funding Agency's prior written approval.

(d) PHFE Project Director. The PHFE Project Director identified above shall be primarily responsible on behalf of PHFE for the overall direction of the Services, including review and approval of Subcontractor's/Subawardee's performance of the Services. PHFE will notify Subcontractor/Subawardee if PHFE replaces or reassigns such Project Director.

(e) Performance Reporting. If requested by PHFE or the Funding Agency, Subcontractor/Subawardee shall submit a final technical or performance report, annual performance report, and quarterly performance reports. The final report shall be due 30 days after expiration or termination of this Agreement; annual reports and quarterly reports shall be due 30 days after the reporting period. Subcontractor/Subawardee shall also provide any other reports as may be requested by PHFE. Performance reports shall include a comparison of actual accomplishments with goals and objectives established for the period, findings of the PI, or both, as requested by PHFE. Where possible, quantitative output data should be related to cost data for computation of unit costs. Other pertinent information will include, when appropriate, the reasons why established goals were not met and an analysis. Subcontractor/Subawardee shall immediately

notify PHFE of developments that have a significant impact on the performance of the Services hereunder and of any problems, delays, or adverse conditions that materially impair its ability to meet the objectives of the Services, including providing a statement of the action taken or contemplated and any assistance needed to resolve the situation.

**3. COMPLIANCE WITH FUNDING AWARD AGREEMENT AND LAWS AND REGULATIONS; FLOW DOWN PROVISIONS**

(a) Compliance with Funding Contract. Subcontractor/Subawardee shall comply with, and shall ensure that all of its personnel and lower-tier subcontractors comply with, all of the rules, requirements and restrictions set forth in the Funding Award Agreement that are applicable to Subcontractor/Subawardee and Subcontractor's/Subawardee's activities.

(b) Flow Down Provisions. Without limiting the generality of Section 3(a) above, Subcontractor/Subawardee shall comply with, and shall ensure that all of its personnel and lower-tier subcontractors comply with, all of the flow-down provisions of the Funding Award Agreement applicable to Subcontractor/Subawardee set forth in Exhibit C attached hereto or otherwise made available to Subcontractor/Subawardee (including through links to website pages), which are made a part hereof and incorporated herein by reference (the "Flow Down Provisions"). Subcontractor/Subawardee represents and warrants that it has carefully reviewed all of the Flow Down Provisions and is able to comply with all of the Flow Down Provisions. In the event that the requirements set forth in the Flow Down Provisions are greater than the requirements set forth in this Agreement, or in the event of any conflict between the provisions of this Agreement and the Flow Down Provisions, the Flow Down Provisions shall control and Subcontractor/Subawardee shall comply with the requirements set forth in the Flow Down Provisions in accordance with Section 2(a).

(c) Laws and Regulations. Subcontractor/Subawardee shall also comply with all state and federal statutes and regulations applicable to Subcontractor/Subawardee, the Services or the Funding Award Agreement, in performing its obligations under this Agreement. Without limiting the generality of the foregoing, Subcontractor shall:

(i) unless exempt, comply with the requirements under 45 CFR Part 74, and the Public Health Service Grants Policy Statement;

(ii) unless exempt, comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemental in Dept. of Labor regulations (41 CFR Part 60);

(iii) comply with (and not violate) all statutes, laws, rules and regulations relating to non-discrimination against any employees or applicants for employment, including, without limitation, Title VII of the Civil Rights Act of 1964, The Americans with Disabilities Act Amendments Act of 2008, and the California Fair Employment and Housing Act (if Subcontractor/Subawardee is located within California), and shall take affirmative action to ensure

that all employment related decisions are made in conformance with all such statutes, laws, rules and regulations; and

(iv) unless it is exempt from doing so, comply with 45 CFR Part 76, Appendix B-Certification Regarding Debarment, Suspension, and Ineligibility, Voluntary Exclusion-Lower Tier Covered Transactions.

(d) HIPAA Business Associate Agreement. If the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") is applicable to the Services, Subcontractor/Subawardee shall execute and deliver PHFE's standard Business Associate Agreement as required by HIPAA.

(e) Lower-tier Subcontractors/Subawardees. Subcontractor/Subawardee shall incorporate all of the terms and conditions of this Agreement into all lower-tier subcontracts that Subcontractor/Subawardee may enter into in connection with this Agreement, and shall ensure that all such lower-tier subcontractors/subawardees and their personnel comply with all of the requirements of this Agreement applicable to Subcontractor/Subawardee, and all of the rules, requirements and restrictions set forth in the Funding Award Agreement, including the Flow Down Provisions, that are applicable to such lower-tier subcontractors'/subawardees' activities.

#### 4. PAYMENT FOR SERVICES

(a) Budget. The total compensation and reimbursements payable to Subcontractor/Subawardee hereunder shall be as set forth in the detailed budget for the Services attached hereto as Exhibit B (the "Budget"), which is made a part hereof and incorporated herein by reference, which Budget is as set forth in the Funding Award Agreement. The maximum amount payable to Subcontractor/Subawardee hereunder shall not exceed the maximum amount set forth in the Budget.

(b) Must Stay Within Budget Time Periods. Subcontractor/Subawardee shall be compensated only for Services actually performed by Subcontractor/Subawardee and within the appropriate time period set forth in the Budget.

(c) Approval of Services by PHFE. All Services must be completed to the satisfaction of PHFE in order to be entitled to payment hereunder.

(d) Funds Available to PHFE. PHFE shall not be obligated to make payment under this Agreement unless the corresponding funds are disbursed to PHFE under the Funding Award Agreement. In the event that PHFE has made payment to Subcontractor/Subawardee under this Agreement and PHFE subsequently does not receive from the Funding Agency for any reason the corresponding payment for the Services performed by Subcontractor/Subawardee or expenses incurred by Subcontractor/Subawardee, then Subcontractor/Subawardee shall refund such payment to PHFE within ten (10) days after written notice from PHFE.

(e) Billing of Expenses and Costs. All expenses and costs shall be billed in accordance with the approved budget. Expenses incurred after the expiration or termination of this Agreement shall be disallowed. Subcontractor/Subawardee shall submit its final invoice no later than 30 days after the date of expiration of the term or termination of this Agreement.

(f) Budget Modifications. The Budget may be modified only by written agreement of PHFE and Subcontractor/Subawardee and the prior written approval of the Funding Agency.

## 5. INVOICING PROCEDURES

(a) Approval by Funding Agency. If required under the Funding Award Agreement, Subcontractor/Subawardee must first submit all timesheets and invoices to the Funding Agency for approval by the Funding Agency. After the Funding Agency has approved a timesheet and invoice submitted by Subcontractor/Subawardee, Subcontractor/Subawardee shall submit the same to PHFE.

(b) Address for Invoices. Subcontractor/Subawardee shall send all timesheets and invoices to the attention of the PHFE Project Director at the address set forth in Section 1 above.

(c) Invoicing Period. All invoices shall be submitted not more frequently than monthly, in arrears and must be submitted to PHFE within 30 days after the end of the applicable month or within 15 days after approval by the Funding Agency (if applicable), whichever is later. All final invoices must be received within 30 days of the expiration or termination of this Agreement or within such earlier time period as PHFE may require. If any invoices are not submitted within such time periods, Subcontractor/Subawardee waives (in PHFE's discretion) all rights to payment under such invoices.

(d) Formatting and Requirements of Invoices. All invoices shall be submitted in the form attached hereto as Exhibit D, as it may be modified by PHFE from time to time.

## 6. TERM AND TERMINATION

(a) Term. Unless earlier terminated as provided herein, the term of this Agreement shall be from July 1, 2014 to June 30, 2015 (the "Term").

(b) Termination Without Cause. Without cause, PHFE may terminate this Agreement by giving 30 days prior written notice to Subcontractor/Subawardee of its intent to terminate this Agreement without cause.

(c) Termination for Cause. With reasonable cause, either party may terminate this Agreement effective immediately upon the giving of written notice of termination for cause. Reasonable cause shall include:

i. A material violation or breach of this Agreement by the other party which is not cured within 15 days after written notice from the terminating party;

ii. Any act of the other party that exposes the terminating party to liability to others for personal injury or property damage or any other harm, damage or injury; or

iii. If either party receives notice from the Funding Agency of the cancellation or termination of, or reduction of funding under, the Funding Award Agreement affecting the Services.

(d) Termination for Lack of Funding. PHFE may terminate this Agreement if for any reason the funding available under the Funding Award Agreement is withdrawn, limited, or impaired.

(e) Cessation Upon Termination. On the effective date of termination, Subcontractor/Subawardee shall cease all further Services under this Agreement, and Subcontractor/Subawardee shall cancel as many outstanding obligations as possible and not incur any additional obligations.

(f) Payment After Termination. Subject to the terms and conditions set forth in this Agreement, upon termination of this Agreement, provided, that PHFE has received the corresponding funds from the Funding Agency under the Funding Award Agreement, PHFE shall pay for any reasonable non-cancellable obligations properly incurred by Subcontractor/Subawardee under this Agreement and in accordance with the Budget prior to termination, and shall pay any amounts due to Subcontractor/Subawardee and properly invoiced under this Agreement for Services performed prior to termination; provided, that if PHFE has terminated this Agreement for reasonable cause under Section 6(c) above, then PHFE shall have the right to offset and deduct from any payments due to Subcontractor/Subawardee hereunder any damages or losses incurred by PHFE as a result of such violation or breach.

(g) Return of Materials. Upon the expiration or termination of this Agreement, Subcontractor/Subawardee shall immediately promptly return to PHFE all computers, cell phones, smart phones, computer programs, files, documentation, user data, media, related material and any and all other Confidential Information (as defined in below) of PHFE and all Work Product (as defined below). PHFE shall have the right to withhold final payment to Subcontractor/Subawardee until all such items are returned to PHFE.

(h) Surviving Provisions. The provisions of Sections 7 through 16, and any other sections that by their nature should or are intended to survive the expiration or termination of this Agreement shall survive and the parties shall continue to comply with the provisions of this Agreement that survive.

**7. REPRESENTATIONS AND WARRANTIES.** Subcontractor/Subawardee represents, warrants and covenants to PHFE as follows:

(a) Licenses and Permits. Subcontractor/Subawardee maintains and shall maintain during all relevant times under this Agreement all applicable federal, state and local business and other licenses, including any professional licenses or certificates, industrial permits and/or licenses, industry specific licenses, licenses required by the state(s) and/or locality(s) in which it does business, fictitious business names, federal tax identification numbers, insurance, and anything else required of Subcontractor/Subawardee as a business operator.

(b) Qualifications and Performance. Subcontractor/Subawardee (i) has the experience and skill to perform the Services hereunder, (ii) shall perform the Services in a good and workman like manner and in accordance with generally accepted professional standards and in an expeditious and economical manner consistent with sound professional practices, and (iii) is adequately financed to meet any financial obligation it may be required to incur hereunder.

(c) Not Debarred. Neither Subcontractor/Subawardee nor its principals or personnel are presently, nor will any of them be during the term of this Agreement, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or funding agency.

#### 8. INDEPENDENT CONTRACTOR STATUS

(a) Independent Contractor. Nothing in this Agreement is intended to place the parties in the relationship of employer-employee, partners, joint venturers, or in anything other than an independent contractor relationship. It is the parties' intention that Subcontractor/Subawardee shall be an independent contractor and not PHFE's employee or agent, and in conformity therewith, that Subcontractor/Subawardee shall retain sole and absolute discretion and judgment in the manner and means of carrying out Subcontractor/Subawardee's Services hereunder. Subcontractor/Subawardee is under the control of PHFE as to the results of Subcontractor/Subawardee's Services only, and not as to the means by which such results are accomplished.

(b) No Power to Bind PHFE. Without limiting the generality of the foregoing paragraph, this Agreement does not designate Subcontractor/Subawardee as the agent or legal representative of PHFE for any purpose whatsoever. Subcontractor/Subawardee is not granted any right or authority to assume or create any obligation or responsibility, or to make any promise or commitment regarding any work, on behalf of or in the name of PHFE or to bind it in any manner, or to make any contract or agreement on behalf of or in the name of PHFE, without the prior written consent from PHFE management. No sales, invoices nor orders for goods or services shall be valid and binding upon PHFE (whether as the provider or the recipient) unless and until accepted by PHFE, at its sole and absolute discretion, through its established channels. PHFE shall not be liable for any obligation incurred by Subcontractor/Subawardee.

(c) No Withholding. Except for tax withholdings that are required by law, neither federal, nor state, nor local income tax nor payroll taxes of any kind shall be withheld or paid by PHFE on behalf of Subcontractor/Subawardee or the employees of Subcontractor/Subawardee. Subcontractor/Subawardee and its personnel shall not be treated as employees of PHFE with

respect to the Services performed hereunder for federal or state tax purposes or for any other purposes.

(d) No Employee Benefits. Neither Subcontractor/Subawardee nor its personnel shall be eligible for, and shall not participate in, any of PHFE's retirement, health, or other fringe benefit plans.

(e) Workers' Compensation. No workers' compensation insurance shall be obtained by PHFE concerning Subcontractor/Subawardee or Subcontractor's/Subawardee's personnel. Subcontractor/Subawardee shall comply with all workers' compensation laws concerning Subcontractor/Subawardee and its personnel.

(f) Taxes. Subcontractor/Subawardee understands that Subcontractor/Subawardee is responsible to pay, according to law, Subcontractor's/Subawardee's income taxes. If Subcontractor/Subawardee is not an entity, Subcontractor/Subawardee further understands that Subcontractor/Subawardee may be liable for self-employment (social security) tax, to be paid by Subcontractor/Subawardee according to law. Subcontractor/Subawardee shall be solely responsible for the payment of all federal, state and local income taxes, social security taxes, federal and state unemployment insurance and similar taxes and all other assessments, taxes, contributions or sums payable with respect to Subcontractor/Subawardee or its employees as a result of or in connection with the Services performed by Subcontractor/Subawardee hereunder. Subcontractor/Subawardee represents and warrants and covenants that it shall report all income earned as a result of this Agreement and pay all federal, state and local income and self-employment taxes and other assessments required to be paid under applicable law. Subcontractor/Subawardee agrees to defend, indemnify and hold PHFE harmless from any and all claims made by federal, state and local taxing authorities on account of Subcontractor's/Subawardee's failure to pay any such federal, state or local income and self-employment taxes or other assessments due as a result of Subcontractor's/Subawardee's Services hereunder.

(g) Sub-Tier Subcontractors/Subawardees. Subcontractor/Subawardee shall have control over the manner and means of Subcontractor/Subawardee's performance under this Agreement. However, PHFE is engaging Subcontractor/Subawardee for Subcontractor's/Subawardee's unique skills, knowledge, abilities and other attributes. Accordingly, Subcontractors/Subawardees may not use any lower-tier subcontractors/subawardees in the performance of its services hereunder without PHFE's prior written approval. Any lower-tier subcontractors/subawardees who are approved by PHFE must execute all agreements and documents required by PHFE prior to performing any work. Subcontractor/Subawardee shall ensure that all lower-tier subcontractors/subawardees comply with all of the terms and provisions of this Agreement and shall be responsible and liable for all acts and omissions of all lower-tier subcontractors/subawardees as if they were the acts or omissions of Subcontractor/Subawardee.

## 9. ASSIGNMENT OF WORK PRODUCT.



(a) Ownership of Work Product. Subcontractor/Subawardee agrees that, as between PHFE and Subcontractor/Subawardee, all discoveries, ideas, inventions, and information that Subcontractor/Subawardee may develop (either alone or in conjunction with others), information or work product developed wholly or partially by Subcontractor/Subawardee as part of or related to Subcontractor's/subawardee's retention by PHFE hereunder (including all intermediate and partial versions thereof) or the performance of the services hereunder or which existence Subcontractor/Subawardee may discover while retained by PHFE, including any software, platforms, all ideas, designs, marks, logos, and content relating thereto, whether or not subject to patent, copyright or trademark or other intellectual property protections including without limitation, any scripts, prototypes, other components (collectively the "Work Product"), shall be the sole property of PHFE upon its creation and (in the case of copyrightable works) upon its fixation in a tangible medium of expression.

(b) Assignment. Subcontractor/Subawardee hereby forever assigns to PHFE all right, title and interest in any Work Product designed and/or developed by Subcontractor/Subawardee or otherwise delivered to PHFE as part of or related to Subcontractor's/Subawardee's retention with PHFE. The Work Product shall be the sole property of PHFE, and all copyrightable and patentable aspects of the Work Product are to be considered "works made for hire" within the meaning of the Copyright Act of 1976, as amended (the "Act"), of which PHFE is to be the "author" within the meaning of such Act. All such copyrightable and patentable works, as well as all copies of such works in whatever medium fixed or embodied, shall be owned exclusively by PHFE on their creation, and Subcontractor/Subawardee hereby expressly disclaims any interest in any of them. In the event (and to the extent) that any Work Product or any part or element of them, is found as a matter of law not to be a "Work Made For Hire" within the meaning of the Act, Subcontractor/Subawardee hereby assigns to PHFE the sole and exclusive right, title and interest in and to all such works, and all copies of any of them, without further consideration, and, if such assignment is invalid, Subcontractor/Subawardee hereby grants PHFE a non-exclusive, worldwide, perpetual, fully paid-up, irrevocable, right and license to use, reproduce, make, sell, perform and display (publicly or otherwise), and distribute, and modify and otherwise make derivative works of Subcontractor/Subawardee's Work Product and to authorize third parties to perform any or all of the foregoing, including through multiple tiers of sublicenses.

(c) Moral Rights Waiver. For purposes of this subsection, "Moral Rights" means any rights of paternity or integrity, any right to claim authorship of the Work Product, to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the Work Product, whether or not such would be prejudicial to Subcontractor's/Subawardee's honor or reputation, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless whether or not such right is denominated or generally referred to as a "Moral" right. Subcontractor/Subawardee hereby irrevocably transfers and assigns to PHFE any and all Moral Rights that Subcontractor/Subawardee may have in the Work Product. Subcontractor/Subawardee also hereby forever waives and agrees never to assert any and all Moral Rights it may have in the Work Product, even after termination of Subcontractor's/Subawardee's work on behalf of PHFE as part of or related to Subcontractor's/Subawardee's retention with PHFE.

(d) No Liens. Subcontractor/Subawardee shall deliver all Work Product to PHFE free and clear of any and all claims, rights and encumbrances of third parties.

(e) Assignment Documents. Subcontractor/Subawardee will cooperate with PHFE, with PHFE's approval and at PHFE's expense, in obtaining patent, copyright, trademark or other statutory protections for the Work Product in each country in which one or more is sold, distributed or licensed, and in taking any enforcement action, including any public or private prosecution, to protect PHFE's Intellectual property rights in or to the Work Product. Subcontractor/Subawardee hereby grants PHFE the exclusive right, and appoints PHFE as attorney-in-fact, to execute and prosecute in Subcontractor's/Subawardee's name as author or inventor or in PHFE's name as assignee, any application for registration or recordation of any copyright, trademark, patent or other right in or to the Work Product, and to undertake any enforcement action with respect to any Work Product. With PHFE's approval and at PHFE's expense, Subcontractor/Subawardee will execute such other documents of registration and recordation as may be necessary to perfect in PHFE, or protect, the rights assigned to PHFE hereunder in each country in which PHFE reasonably determines to be prudent.

(f) No Infringement. Subcontractor/Subawardee represents and warrants that any Work Product delivered to PHFE hereunder will be developed by Subcontractor/Subawardee and shall not infringe or violate any patents, copyrights, trademarks, trade secrets or other proprietary rights of any third party.

(g) No Harmful Code. With respect to the website and any computer programs or software code ("Software") included in the Services hereunder, Subcontractor/Subawardee represents and warrants that: (i) the Software and its media shall contain no computer instructions or inappropriate functions whose purpose or result is to disrupt, damage or interfere with PHFE's or its affiliates' or their customers' use of or access to the Software or any of their data, programs or computer or telecommunications facilities and (ii) unless expressly authorized in writing by PHFE, such Software shall not contain any mechanism which electronically notifies Subcontractor/Subawardee of any fact or event, nor contain any key, node lock, time-out, logic bomb or other function, implemented by any means, which may restrict PHFE's or its affiliates' or customers' use of or access to the Software or any other programs, data or equipment.

(h) Rights of Funding Agency and Federal Government. All rights to the Work Product assigned or granted to PHFE hereunder shall be subject to any rights of the Funding Agency under the Funding Award Agreement and any rights of the United States Federal Government under applicable laws and regulations.

## 10. PUBLICATIONS

(a) Right to Publish Works. Subcontractor/Subawardee may, with PHFE's and the Funding Agency's prior written consent, publish articles written by Subcontractor/Subawardee in connection with the Services performed by Subcontractor/Subawardee hereunder. Subcontractor/Subawardee shall submit all such articles for review by PHFE and the Funding Agency at least 60 days prior to the proposed publication date.

(b) Acknowledgment in Publications. On any publication approved by PHFE and the Funding Agency as described above, Subcontractor/Subawardee shall place an acknowledgment of federal government support, and shall include a disclaimer, as appropriate, as follows: "The contents of this publication are solely the responsibility of the authors and do not necessarily represent the official views of Public Health Foundation Enterprises, Inc.

(c) Use of PHFE's or Funding Agency's Name. Subcontractor/Subawardee shall not use in any manner PHFE's name, logo or trademarks without PHFE's prior written consent. Subcontractor/Subawardee shall not use in any manner the Funding Agency's name, logo or trademarks without the Funding Agency's prior written consent.

## 11. INDEMNIFICATION

(a) By Subcontractor/Subawardee. Subcontractor/Subawardee hereby agrees to indemnify, hold harmless and defend PHFE, its board of trustees, officers, directors, agents, contractors and employees from any and all claims, causes of action, costs, demands, expenses (including attorney's fees and costs), losses, damages, injuries, and liabilities arising from (i) any accident, death, or injury whatsoever or however caused to any person or property arising out of the intentional action or negligence of Subcontractor/Subawardee (or its agents, subcontractors or employees), (ii) Subcontractor's/Subawardee's (or its agents', subcontractors' or employees') violation of any federal, state or local law or regulation, (iii) the breach by Subcontractor/Subawardee (or its agents, subcontractors or employees) of any its representations, warranties or agreements under this Agreement or (iv) any claims that the Work Product, or any element thereof, infringes the intellectual, privacy or other rights of any party.

(b) By PHFE. PHFE hereby agrees to indemnify, hold harmless and defend Subcontractor/Subawardee, its officers, directors, agents, contractors and employees from any and all claims, causes of action, costs, demands, expenses (including attorney's fees and costs), losses, damages, injuries, and liabilities arising from (i) any accident, death, or injury whatsoever or however caused to any person or property arising out of the intentional action or negligence of PHFE, (ii) PHFE's violation of any federal, state or local law or regulation or (iii) the breach by PHFE of any its representations, warranties or agreements under this Agreement.

## 12. INSURANCE

(a) Required Coverages. Subcontractor/Subawardee shall, unless otherwise agreed in writing by PHFE, maintain: (i) Workers' Compensation insurance, (ii) Professional Liability Insurance and Commercial General Liability Insurance (including broad form contractual and automobile liability coverage), with minimum limits of ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, and (iii) Automobile Liability on each automobile owned by him/her/it or his/her/its agents, subcontractors/subawardees or employees, which is used at any time to carry out Subcontractor's/Subawardee's duties hereunder, with minimum limits of \$100,000 per person

and \$300,000 per occurrence for bodily injury. If higher or additional coverages are required under the Flow Down Provisions, Subcontractor/Subawardee shall procure such coverages.

(b) Additional Insureds. All such insurance shall provide that Subcontractor's/Subawardee's insurance is primary and not contributory, shall protect Subcontractor/Subawardee, PHFE and the Funding Agency and their affiliates from claims for personal injury (including bodily injury and death) and property damage which may arise from or in connection with the performance of the Services hereunder, or from or out of any negligent act or omission of Subcontractor/Subawardee, its officers, directors, agents or employees. All such insurance shall be written by a responsible insurance company possessing B+ VII rating or better as listed in the Best Guide, shall name PHFE and the Funding Agency as additional insureds for Professional Liability, Commercial General Liability and Automobile Liability only, shall contain a waiver of subrogation with respect to the additional insureds, shall be written on an occurrence basis and shall provide that the coverage thereunder may not be reduced or canceled unless 30 days' prior written notice thereof is furnished to PHFE and the Funding Agency. Certificates of Insurance containing such waiver of subrogation or copies of policies shall be furnished to PHFE upon request.

### 13. CONFIDENTIALITY

(a) Confidential Information. Subcontractor/Subawardee agrees that during the course of this Agreement, Subcontractor/Subawardee may be exposed to and become aware of certain unique and confidential information and special knowledge (hereinafter "Confidential Information") provided to or developed by PHFE. Said Confidential Information includes, but is not limited to, the identity of actual and potential clients of PHFE, client lists, particular needs of each client, the manner in which business is conducted with each client, addresses, telephone numbers, and specific characteristics of clients; financial information about PHFE and/or its clients; client information reports; mailing labels; various sales and marketing information; sales report forms; pricing information (such as price lists, quotation guides, previous or outstanding quotations, or billing information); pending projects or proposals; business plans and projections, including new product, facility or expansion plans; employee salaries; contracts and wage information; mailing plans and programs; technical know-how; designs; products ordered; business methods; processes; records; specifications; computer programs; accounting; and information disclosed to PHFE by any third party which PHFE is obligated to treat as confidential and/or proprietary. This Confidential Information derives independent actual or potential economic value from not being generally known to the public or to other persons, who can obtain economic value from its disclosure or use, is not readily available through any source other than PHFE and is the subject of reasonable efforts to maintain secrecy. Since Subcontractor/Subawardee may be exposed to and become aware of said Confidential Information and, because of its unique and confidential nature, the parties hereto desire to afford PHFE protection against its unauthorized use or its use in any manner detrimental to PHFE. Therefore, Subcontractor/Subawardee shall not disclose in any manner whatsoever any of the aforesaid Confidential Information, directly or indirectly, or use it in any way whatsoever, either during this Agreement or at any time thereafter, except as required in the course of Subcontractor's/Subawardee's work with PHFE or except as otherwise provided in this Agreement. Further, Subcontractor/Subawardee shall develop and maintain procedures and

take other reasonable steps in furtherance of PHFE's desire to maintain the confidentiality of its Confidential Information.

(b) Funding Agency Confidentiality. Subcontractor/Subawardee shall also comply with all confidentiality obligations imposed by the Funding Agency in the Funding Award Agreement or otherwise.

(c) Return of Documents. All documents and other items which might be deemed the subject of or related to Confidential Information of PHFE's business, whether prepared, conceived, originated, discovered, or developed by Subcontractor/Subawardee, in whole or in part, or otherwise coming into Subcontractor's/Subawardee's possession, shall remain the exclusive property of PHFE and shall not be copied or removed from the premises of PHFE without the express written consent of PHFE. All such items, and any copies thereof, shall be immediately returned to PHFE by Subcontractor/Subawardee upon request at any time and upon termination of this Agreement.

#### 14. NON-SOLICITATION OF EMPLOYEES

During the Term of this Agreement and for two years following the termination of this Agreement, Subcontractor/Subawardee shall not induce, encourage, or advise any person who is employed by or is engaged as an agent or independent contractor by PHFE to leave the employment or engagement of PHFE or otherwise raid the employees of PHFE. Nothing contained in this paragraph shall constitute a waiver by PHFE of any rights it may have if Subcontractor/Subawardee engages in actionable conduct after the two year period referred to above.

#### 15. RECORD RETENTION AND ACCESS TO RECORDS

Subcontractor/Subawardee shall grant to PHFE, the Funding Agency and the U.S. Comptroller General and their respective authorized representatives upon demand, access to any books, documents, papers and records of Subcontractor/Subawardee relating to this Agreement or the Services for audit, examination, excerpt and transcription. Subcontractor/Subawardee shall retain all such records for seven (7) years (or longer if required under PHFE's record retention policy, under the Funding Award Agreement or by law, including under Circular A-110, Subpart C, Post-Award Requirements and FAR Subpart 4.7 Contractor Records Retention - 4.703 Policy) after final payment is made under this Agreement and all pending matters are closed, unless extended by an audit, litigation, or other action involving the records, whichever is later.

#### 16. GENERAL TERMS

(a) Amendments. Amendments to this Agreement shall be in writing, signed by the party to be obligated by such amendment and attached to this Agreement.

(b) Governing Law; Venue. This Agreement is entered into in Los Angeles County, California. This Agreement shall be interpreted, construed and governed by, in accordance with

and consistent with the laws of the State of California without giving effect to its conflicts of laws principals. Such laws shall apply in all respects, including statutes of limitation, to any disputes or controversies arising out of or pertaining to this Agreement. The sole, exclusive and proper venue for any proceedings brought to interpret or enforce this Agreement or to obtain a declaration of the rights of the parties hereunder shall be Los Angeles County, California. Each of the parties hereto submits to the exclusive personal jurisdiction of the courts located in Los Angeles County, California and waives any defense of forum non conveniens.

(c) Equitable Relief. In light of the irreparable harm to PHFE that a breach by Subcontractor/Subawardee of Sections 9, 10, 13 and 14 of this Agreement would cause, in addition to other remedies set forth in this Agreement and other relief for violations of this Agreement, PHFE shall be entitled to enjoin Subcontractor/Subawardee from any breach or threatened breach of such Sections, to the extent permitted by law and without bond.

(d) Binding Agreement. All terms, conditions and covenants to be observed and performed by the parties hereto shall be applicable to and binding upon their respective agents, employees, heirs, executors, administrators, affiliates, subsidiaries, associates, employees, successors and assigns.

(e) Captions. All captions (section headings) set forth herein are inserted only as a matter of convenience and for reference, and shall not affect the interpretation of this Agreement.

(f) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which, when taken together, shall constitute one and the same document.

(g) Additional Documents. The parties hereto each agree that they shall execute and, if appropriate, acknowledge any and all additional and other documents, instruments and writings which may be reasonably requested by the other party in order to fully carry out the intent and purpose of this Agreement.

(h) Attorneys' Fees; Costs. In the event that any suit in law or equity, arbitration or other formal proceeding is instituted by any party to enforce or interpret any part of this Agreement, or to recover damages for breach thereof, the prevailing party shall, in addition to any such other relief available to such party, be entitled to recover costs of suit incurred therein, and to also recover as an element of such costs (but not as damages) reasonable attorneys' fees incurred by such prevailing party.

(i) Entire Agreement. This Agreement, and all documents referred to in it, or incorporated in it, is an integrated document containing and expressing all terms, covenants, conditions, warranties and agreements of the parties relating to the subject matter hereof. No other or prior agreements or understandings, written or oral, pertaining to the same shall be valid or of any force or effect.

(j) Facsimile or Email Transmissions. A facsimile transmission or transmission by Email of the executed signature page of this Agreement shall be accepted as, relied upon as, and deemed to be, an original.

(k) Fair Interpretation. The language appearing in all parts of this Agreement shall be construed, in all cases, according to its fair meaning in the English language, and not strictly construed for or against any party hereto. This Agreement has been prepared jointly by the parties hereto after arms length negotiations and any uncertainty or ambiguity contained in this Agreement, if any, shall not be interpreted or construed against any party, but according to its fair meaning applying the applicable rules of interpretation and construction of contracts.

(l) No Waiver. No failure or delay by any party in exercising a right, power or remedy under the Agreement shall operate as a waiver of any such right or other right, power or remedy. No waiver of, or acquiescence in, any breach or default of any one or more of the terms, provisions or conditions contained in this Agreement shall be deemed to imply or constitute a waiver of any other or succeeding or repeated breach or default hereunder. The consent or approval by any party hereto to or of any act of the other party hereto requiring further consent or approval shall not be deemed to waive or render unnecessary any consent or approval to or of any subsequent similar acts.

(m) Notices. Any notice, demand, consent or other communication required or permitted to be given hereunder shall be made in the English language and shall be so given by personal delivery, by (i) registered or certified (return receipt) or First Class United States Postal Service mail, postage pre-paid, or (ii) recognized overnight national courier service, or (iii) facsimile transmission confirmed by letter sent by First Class United States Postal Service mail, postage pre-paid, or (iv) by email confirmed by letter sent by First Class United States Postal Service mail, postage pre-paid, addressed to the recipient of such notice at the following address or facsimile number, as the case may be, or any other address or facsimile number or email address provided by a party in the manner described hereinabove:

In the case of PHFE, addressed to:

Public Health Foundation Enterprises, Inc.  
12801 Crossroads Parkway South, Suite 200  
City of Industry, CA 91746-3505  
Attention: Rochelle McLaurin  
Facsimile: 562-692-6950  
Email: RMclaurin@phfe.org

In the case of Subcontractor, addressed to:

The City and County of San Francisco

1380 Howard Street

San Francisco, CA 94103

Attention: Sajid Shaikh

Facsimile: 415-255-3512

Email: sajid.shaikh@sfdph.org

Any such notice shall be deemed to have been received by the addressee, and service thereof shall be deemed effective, five (5) days following deposit thereof with the United States Postal Service, or upon actual receipt, whichever first occurs, unless the address for delivery is not within one of the United States or its territories or possessions, in which case service shall be effective seven (7) days following deposit, or upon actual receipt, whichever first occurs.

(n) Remedies Non-Exclusive. Except where otherwise expressly set forth herein, all remedies provided by this Agreement shall be deemed to be cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the respective parties at law or in equity.

(o) Severability. If any term, provision, condition or other portion of this Agreement is determined to be invalid, void or unenforceable by a forum of competent jurisdiction, the same shall not affect any other term, provision, condition or other portion hereof, and the remainder of this Agreement shall remain in full force and effect, as if such invalid, void or unenforceable term, provision, condition or other portion of this Agreement did not appear herein.

(p) Limitation of Liability. Except for a breach of sections 9 and 13 above and except to the extent included in a party's indemnification obligations under Section 11 above, in no event shall any party be liable to the other for any indirect, special, incidental, punitive or consequential damages, whether based on breach of contract, tort (including negligence), or otherwise, and whether or not that party has been advised of the possibility of such damage.

(q) Non-Assignability. None of the parties shall assign, transfer, sell, encumber, hypothecate, alienate or otherwise dispose of this Agreement, or any right, title or interest to or in this Agreement, nor shall a party delegate any duty or obligation to be performed hereunder, without the express written consent of the other party having been first obtained, except that any party may assign this Agreement without the consent of the other party in the case of a reorganization, merger, consolidation, or sale of all or substantially all of its assets so long as the assignee expressly assumes all of the obligations of the assignor under this Agreement. Notwithstanding the foregoing, PHFE may assign this Agreement to an affiliate of PHFE without the



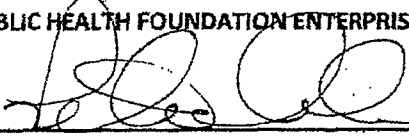
consent of the other party. Any attempt to assign this Agreement other than as permitted above shall be null and void.

(r) Signing Person. The individuals signing this Agreement on behalf of an entity represents and warrants that he/she has authority to bind such entity to this Agreement.

[Signatures follow on next page]

The undersigned have caused this Subcontract/Subaward Agreement to be executed as of the date first set forth above:

**PUBLIC HEALTH FOUNDATION ENTERPRISES, INC.**

By:   
Peter Dale,  
Director, Contract and Grant Management

10/27/14  
Date

**SUBCONTRACTOR/SUBAWARDEE**

Name: TOMÁS ARAGÓN  
Signature: Tomás Aragón, MD

10/21/14  
Date

Tomás J. Aragón, MD, DrPH, Director, Population Health Division (PHD)  
Print Name, Title

EXHIBIT A  
TO SUBCONTRACT/SUBAWARD AGREEMENT

Scope of Work (SOW)

**Albert Liu, MD (Principal Investigator)** As Principal Investigator (PI), Dr. Liu will be responsible for the overall scientific, operational, and administrative aspects of the study. Dr. Liu will direct the design, implementation and analysis of epidemiologic, clinical, behavioral, laboratory, and all other scientific aspects of this study. Dr. Liu is Director of HIV Prevention Intervention Studies at the San Francisco Department of Public Health and Assistant Clinical Professor of Medicine at UCSF. Dr. Liu will have responsibility for achieving the specific aims of the study, for maintaining the proposed study schedule, ensuring quality control over all aspects of the study, protecting participant safety, and data analysis and publication of results

**Susan Buchbinder, MD (co-Principal Investigator)** Dr. Buchbinder will participate actively in data collection instrument development, data analyses, and manuscript writing and provide senior-level mentorship to Dr. Liu.

**Jonathan Fuchs, MD, MPH (co-Principal Investigator)** Dr. Fuchs will work with Dr. Al Liu (Principal Investigator) to oversee the creation of study plans for EPIC and draft study related materials including data collection forms. Dr. Fuchs will lead efforts to adapt the SMS telephone support intervention for use at the STD clinic, create standard of care counselling protocols, and develop training manuals for EPIC staff. Dr. Fuchs will also assume a lead role in data analyses and manuscript development and be responsible for preparation of Project progress reports

**EXHIBIT B  
TO SUBCONTRACT/SUBAWARD AGREEMENT**

**Budget**

**Please see attached**

EPIC TO CCSF

Principal Investigator/Program Director (Last, first, middle):

Albert Liu

<b>DETAILED BUDGET FOR INITIAL BUDGET PERIOD</b>		FROM	THROUGH
<b>DIRECT COSTS ONLY</b>		7/1/2014	6/30/2015

PERSONNEL (Applicant organization only)		TYPE APPT (months)	% EFFORT ON PROJ.	INST. BASE SALARY	DOLLAR AMOUNT REQUESTED (omit cents)		
NAME	ROLE ON PROJECT				SALARY REQUESTED	FRINGE BENEFITS	TOTAL
Albert Liu	Principal Investigator	12	30.0%	181,500	54,450	22,869	77,319
Susan Buchbinder	Co-Investigator	12	2.5%	181,500	4,538	1,497	6,035
Jonathan Fuchs	Co-Investigator	12	7.5%	181,500	13,613	4,356	17,969
<b>SUBTOTALS</b>					<b>72,600</b>	<b>28,722</b>	<b>101,322</b>

CONSULTANT COSTS 0

EQUIPMENT (itemize) 0

SUPPLIES (itemize by category) 0

TRAVEL 0

PATIENT CARE COSTS	INPATIENT	0
	OUTPATIENT	0

ALTERATIONS AND RENOVATIONS (itemize by category) 0

OTHER EXPENSE (itemize by category) 0

CONSORTIUM/CONTRACTUAL COSTS	DIRECT COSTS	
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<b>SUBTOTAL DIRECT COST FOR INITIAL BUDGET PERIOD (Item 7a, Face Page)</b>	<b>\$101,322</b>
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CONSORTIUM/CONTRACTUAL COSTS	FACILITIES AND ADMINISTRATIVE COSTS	17,439
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<b>TOTAL DIRECT COSTS FOR INITIAL BUDGET PERIOD</b>	<b>\$118,761</b>
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**SBIR/STTR Only: FIXED FEE REQUESTED**

EXHIBIT C  
TO SUBCONTRACT/SUBAWARD AGREEMENT  
FLOW DOWN PROVISIONS

Prime award attached

2417-004.001



RESEARCH  
Department of Health and Human Services  
National Institutes of Health  
NATIONAL INSTITUTE OF MENTAL HEALTH

Notice of Award

Issue Date: 06/21/2014



Grant Number: 5R01MH095628-04  
FAIN: R01MH095628

Principal Investigator(s):  
Albert Ying-Hwa Liu, MD

Project Title: Enhancing PrEP in Community Settings (EPIC)

PETER DAVID DALE  
Contract Manager  
12801 Crossroads Parkway  
Suite 200  
City of Industry, CA 91715

Award e-mailed to: pdale@phfe.org

Budget Period: 07/01/2014 – 06/30/2015  
Project Period: 09/06/2011 – 06/30/2016

Dear Business Official:

The National Institutes of Health hereby awards a grant in the amount of \$457,041 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to PUBLIC HEALTH FOUNDATION ENTERPRISES in support of the above referenced project. This award is pursuant to the authority of 42 USC 241 42 CFR 52 and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

Each publication, press release, or other document about research supported by an NIH award must include an acknowledgment of NIH award support and a disclaimer such as "Research reported in this publication was supported by the National Institute Of Mental Health of the National Institutes of Health under Award Number R01MH095628. The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health." Prior to issuing a press release concerning the outcome of this research, please notify the NIH awarding IC in advance to allow for coordination.

Award recipients must promote objectivity in research by establishing standards that provide a reasonable expectation that the design, conduct and reporting of research funded under NIH awards will be free from bias resulting from an Investigator's Financial Conflict of Interest (FCOI), in accordance with the 2011 revised regulation at 42 CFR Part 50 Subpart F. The Institution shall submit all FCOI reports to the NIH through the eRA Commons FCOI Module. The regulation does not apply to Phase I Small Business Innovative Research (SBIR) and Small Business Technology Transfer (STTR) awards. Consult the NIH website <http://grants.nih.gov/grants/policy/foi/> for a link to the regulation and additional important information.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Page-1

Carmen A. Herbert  
Grants Management Officer  
NATIONAL INSTITUTE OF MENTAL HEALTH

Additional information follows

Page-2

1/27/2010 10:00 AM

Page 25 of 29



**SECTION I – AWARD DATA – 5R01MH095628-04**

**Award Calculation (U.S. Dollars)**

Federal Direct Costs \$423,864  
Federal F&A Costs \$33,077  
Approved Budget \$457,041  
Federal Share \$457,041  
**TOTAL FEDERAL AWARD AMOUNT \$457,041**

**AMOUNT OF THIS ACTION (FEDERAL SHARE) \$457,041**

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
4	\$457,041	\$457,041
5	\$467,119	\$467,119

Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project

**Fiscal Information:**

CFDA Number: 93 242  
EIN: 1952557063A1  
Document Number: RMH095628A

PMS Account Type: G (Pooled)  
Fiscal Year: 2014

IC	CAN	2014	2015
MH	8472592	\$457,041	\$467,119

Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project

**NIH Administrative Data:**

PCC: 9A-ASGA / OC: 414E / Released: HERBERTC 06/20/2014  
Award Processed: 05/08/2014 01:52:21 PM

**SECTION II – PAYMENT/HOTLINE INFORMATION – 5R01MH095628-04**

For payment and HHS Office of Inspector General Hotline information, see the NIH Home Page at <http://grants.nih.gov/grants/policy/awardconditions.htm>

**SECTION III – TERMS AND CONDITIONS – 5R01MH095628-04**

This award is based on the application submitted to, and as approved by, NIH on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- The grant program legislation and program regulation cited in this Notice of Award.
- Conditions on activities and expenditure of funds in other statutory requirements, such as those included in appropriations acts.
- 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- The NIH Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.
- This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

(See NIH Home Page at <http://grants.nih.gov/grants/policy/awardconditions.htm> for certain references cited above.)

An unobligated balance may be carried over into the next budget period without Grants Management Officer prior approval.

This grant is subject to Streamlined Noncompeting Award Procedures (SNAP).

This award is subject to the requirements of 2 CFR Part 25 for institutions to receive a Dun & Bradstreet Universal Numbering System (DUNS) number and maintain an active registration in the Central Contractor Registration. Should a consortium/subaward be issued under this award, a DUNS requirement must be included. See <http://grants.nih.gov/grants/policy/awardconditions.htm> for the full NIH award term implementing this requirement and other additional information.

This award has been assigned the Federal Award Identification Number (FAIN) R01MH095628. Recipients must document the assigned FAIN on each consortium/subaward issued under this award.

Based on the project period start date of this project, this award is likely subject to the Transparency Act subaward and executive compensation reporting requirement of 2 CFR Part 170. There are conditions that may exclude this award; see <http://grants.nih.gov/grants/policy/awardconditions.htm> for additional award applicability information.

In accordance with P.L. 110-161, compliance with the NIH Public Access Policy is now mandatory. For more information, see NOT-OD-08-033 and the Public Access website: <http://publicaccess.nih.gov/>.

This award provides support for one or more clinical trials. By law (Title VIII, Section 801 of Public Law 110-85), the "responsible party" must register "applicable clinical trials" on the ClinicalTrials.gov Protocol Registration System Information Website. NIH encourages registration of all trials whether required under the law or not. For more information, see [http://grants.nih.gov/ClinicalTrials\\_fdaaa/](http://grants.nih.gov/ClinicalTrials_fdaaa/)

**Treatment of Program Income:**  
Additional Costs

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#### **SECTION IV – MH Special Terms and Conditions – 5R01MH095628-04**

##### **AWARD NOTICE:**

This award has been made in response to the application submitted under the Funding Opportunity Announcement MH-11-090 which can be referenced at: <http://grants.nih.gov/grants/guide/rfa-files/RFA-MH-11-090.html>

##### **CONSORTIUM/CONTRACTUAL COSTS:**

This award includes funds for consortium activity with University of Connecticut, University of California, San Francisco, and San Francisco Department of Public Health. Each consortium is to be established and administered in accordance with the NIH Grants Policy Statement dated October 2013. No foreign performance site may be added to this project without the written prior approval of the National Institute of Mental Health.

##### **PARTICIPANT RECRUITMENT - MILESTONES:**

Future NIMH support for this study is contingent upon adequate participant recruitment based on projected milestones as approved in the Recruitment Milestone Reporting system (RMR) on 08/10/2011. It is expected that 600 of the 600 total projected participants will be recruited by 08/01/2015. This tri-yearly recruitment report should be submitted electronically to NIMH after each milestone period of April 1, August 1 and December 1 at <http://www.nimh.nih.gov/rmr>. In the event that actual recruitment falls significantly below projected milestones, NIMH may consider withholding future support and/or negotiating an orderly phase-out of this study. Information regarding the NIMH Policy for the Recruitment of Participants in Clinical Research is available at: <http://grants.nih.gov/grants/guide/notice-files/NOT-MH-05-013.html>

**STAFF CONTACTS**

The Grants Management Specialist is responsible for the negotiation, award and administration of this project and for interpretation of Grants Administration policies and provisions. The Program Official is responsible for the scientific, programmatic and technical aspects of this project. These individuals work together in overall project administration. Prior approval requests (signed by an Authorized Organizational Representative) should be submitted in writing to the Grants Management Specialist. Requests may be made via e-mail.

**Grants Management Specialist:** Jane Z. Lin  
Email: linja@mail.nih.gov Phone: 301-443-2229 Fax: 301-480-1956

**Program Official:** Michael J Stirratt  
Email: stirratm@mail.nih.gov Phone: 301-443-6802 Fax: 301-443-6000

**SPREADSHEET SUMMARY**  
**GRANT NUMBER:** 5R01MH095628-04

**INSTITUTION:** PUBLIC HEALTH FOUNDATION ENTERPRISES

Facilities and Administrative Costs	Year 4	Year 5
F&A Cost Rate 1	8.5%	8.5%
F&A Cost Base 1	\$389,136	\$306,783
F&A Costs 1	\$33,077	\$26,077

Exhibit D  
TO SUBCONTRACT/SUBAWARD AGREEMENT

Form of Invoice

Previous invoice accepted by PHFE

Submit monthly invoices to:

Karen Hyun

Operations Administrator

Bridge HIV | Population Health Division

San Francisco Department of Public Health

Van Ness Avenue, Suite 100, San Francisco, CA 94102

415.437.7405 | F: 415.431.7029

[karen.hyun@sfdph.org](mailto:karen.hyun@sfdph.org)

Final invoices Must be marked "Final" and have the statement, *This final invoice represents that all deliverables have been met and delivered.*