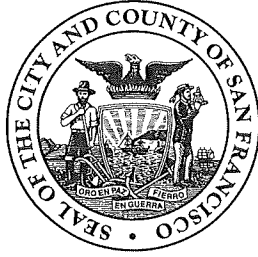


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: December 10, 2018

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 11, 2018

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, December 11, 2018, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, December 6, 2018, at 10:00 a.m., by the votes indicated.

Item No. 51 File No. 181073

Resolution retroactively approving an Amendment No. 2 to the contract between the Department of Public Health and Toyon Associates, Inc., to provide regulatory reporting/reimbursement and revenue optimization services, to increase the agreement amount by \$5,055,360 for an amount not to exceed \$10,051,977 and extend the term by four years from March 31, 2018, for a total eight-year term of April 1, 2014, through March 31, 2022.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Aye
Supervisor Sandra Lee Fewer - Aye
Supervisor Catherine Stefani - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

File No. 181073

Committee Item No. 5

Board Item No. 51

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date December 4, 2018

Board of Supervisors Meeting

Date December 11, 2018

Cmte Board

- | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
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| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date November 30, 2018
 Completed by: Linda Wong Date December 10, 2018

1 [Contract Amendment - Toyon Associates, Inc. - Not to Exceed \$10,051,977]

2
3 **Resolution retroactively approving an Amendment No. 2 to the contract between the**
4 **Department of Public Health and Toyon Associates, Inc., to provide regulatory**
5 **reporting/reimbursement and revenue optimization services, to increase the agreement**
6 **amount by \$5,055,360 for an amount not to exceed \$10,051,977, and extend the term by**
7 **four years from March 31, 2018, for a total eight-year term of April 1, 2014, through**
8 **March 31, 2022.**

9
10 WHEREAS, The Department of Public Health (Department) selected Toyon
11 Associates, Inc., to provide regulatory reporting/reimbursement and revenue optimization
12 services through a Request for Proposals process in 2013, subsequently establishing an
13 agreement in an amount not to exceed \$614,813, for the term April 1, 2014, through
14 September 30, 2014; and

15 WHEREAS, The Department entered into Amendment No. 1, increasing the amount by
16 \$4,381,804 and extending the term by three and one half years, for a total amount not to
17 exceed \$4,996,617 and a total term of April 1, 2014, through March 31, 2018, with an option
18 to renew for one four-year term, approved through Board Resolution No. 329-14; and

19 WHEREAS, The Department wishes to amend the contract to add \$5,055,360 and to
20 extend the term through March 31, 2022, an additional four years; and

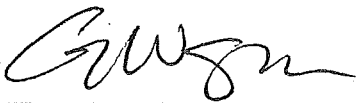
21 WHEREAS, Section 9.118 of the San Francisco Charter requires contracts which when
22 entered into had anticipated revenue of one million dollars or more to be approved by the
23 Board of Supervisors by Resolution; now, therefore, be it

24 RESOLVED, That the Board of Supervisors hereby authorizes the Director of Health
25 and the Office of Contract Administration/Purchaser, on behalf of the City and County of San

1 Francisco, to execute an amendment to the contract with Toyon Associates, Inc., for the
2 period of April 1, 2014, through March 31, 2022, to provide regulatory
3 reporting/reimbursement and revenue optimization services for a cost not to exceed
4 \$10,051,977; and, be it

5 FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed
6 by all parties, the Director of Health and/or the Director of the Office of Contract
7 Administration/Purchaser shall provide the final contracts to the Clerk of the Board for
8 inclusion into the official File No. 181613.

9 RECOMMENDED:

10 
11 _____

12 Greg Wagner

13 Acting Director of Health
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Item 5 File 18-1073	Department: Department of Public Health (DPH)
EXECUTIVE SUMMARY	
Legislative Objectives	
<ul style="list-style-type: none"> The proposed resolution would retroactively approve a second amendment to the contract between the Department of Public Health (DPH) and Toyon Associates, Inc. (Toyon), to provide regulatory reporting and reimbursement maximization for Medicare and Medi-Cal programs. The proposed resolution would (1) increase the contract amount by \$5,055,360 for an amount not to exceed \$10,051,977, and (2) exercise the one option to extend the term by four years from March 31, 2018, for a total eight-year term of April 1, 2014 through March 31, 2022. 	
Key Points	
<ul style="list-style-type: none"> Toyon was selected through a competitive process in 2014 to provide regulatory reporting and reimbursement maximization for Medicare and Medi-Cal programs. Under Toyon's contract with DPH, Toyon works with San Francisco General Hospital, Laguna Honda Hospital, and Health at Home Agency to review and file required regulatory documents with federal and state agencies in order to maximize revenue reimbursements to the City from Medicare and Medi-Cal programs. For the review and filing of regulatory documents, Toyon is paid on a fee-for-service basis. Toyon also pursues appeals to Medicare and Medi-Cal audits and is paid a contingency fee calculated as a percentage of the reimbursement realized by DPH. 	
Fiscal Impact	
<ul style="list-style-type: none"> The proposed second amendment to the contract between DPH and Toyon limits DPH to pay Toyon \$10,051,977, which is \$5,055,360 greater than DPH's maximum amount of \$4,996,617 payable to Toyon under the first contract amendment. This increase in maximum allowed payments is due to DPH anticipating higher payments to Toyon for appealing Medicare and Medi-Cal audits, which DPH only pays contingent on the outcome of the appeal. In the proposed second amendment to the contract, DPH will pay Toyon a maximum of \$5,264,000 for appealing audits from Medicare and Medi-Cal compared to the previous maximum amount of \$2,688,000. According to DPH, Toyon's appeals work has generated approximately \$15.5 million in total recovered reimbursement funds from Medicare and Medi-Cal audits for San Francisco General Hospital and Laguna Honda Hospital from FY 2015-16 through FY 2017-18. 	
Recommendation	
<ul style="list-style-type: none"> Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND**Contract Award, Original Contract, First Amendment**

On September 26, 2013, the Department of Public Health (DPH) issued a new Request for Proposals (RFP) for a four-year contract¹ to provide regulatory reporting and Medi-Cal and Medicare reimbursement maximization. Two firms, Moss-Adams LLP and Toyon Associates Inc. (Toyon) submitted proposals on November 22, 2013. On December 9, 2013, a DPH selection panel evaluated the two proposals based on their relevant experience, qualifications, background, resume and recommendations, local business designation, and projected budget using a 110 point system. Toyon, the existing contractor to DPH, received a score of 93.16 compared to Moss-Adams LLP's score of 77.

DPH previously awarded a contract to Toyon to provide similar services based on a RFP process for the four year period from April 1, 2010 through March 31, 2014. As a result of delays in developing a new contract with Toyon and the need to continue processing payments from Medicare and Medi-Cal without interruption, DPH entered into a six-month interim contract with Toyon from April 1, 2014 through September 30, 2014 for a not-to-exceed amount of \$614,813. Given the short term and amount of the interim contract, the six-month interim contract was not subject to Board of Supervisors approval.

In September 2014, the Board of Supervisors approved a first amendment to the six-month interim contract between DPH and Toyon to continue to provide regulatory reporting, and Medicare and Medi-Cal reimbursement maximization for a total contract amount not-to-exceed \$4,996,617 for the four-year period including the six-month interim contract from April 1, 2014 through March 31, 2018 (File 14-0747).

Services and Compensation

Under Toyon's contract with DPH, Toyon works with San Francisco General Hospital, Laguna Honda Hospital, and Health at Home Agency to review and file required regulatory documents with federal and state agencies in order to maximize revenue reimbursements to the City from Medicare and Medi-Cal programs. For the review and filing of regulatory documents, Toyon is paid on a fee-for-service basis.² Toyon also pursues appeals to Medicare and Medi-Cal audits and is paid a contingency fee calculated as a percentage of the reimbursement realized by DPH.

¹ The RFP provided for a possible option to renew for one additional four-year term.

² The fee is calculated based on an hourly rate x number of hours; the hourly rates are defined by level of staff (executive, team leader, professional staff) and hours are defined by specific tasks, detailed in the appendix to the contract.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve a second amendment to the contract between the Department of Public Health (DPH) and Toyon Associates, Inc. (Toyon), to provide regulatory reporting and Medi-Cal and Medicare reimbursement maximization. The proposed resolution would (1) increase the contract amount by \$5,055,360 for an amount not to exceed \$10,051,977, and (2) exercise the one option to extend the term by four years from March 31, 2018, for a total eight-year term of April 1, 2014, through March 31, 2022.

The proposed second amendment to the existing contract between DPH and Toyon is retroactive to April 1, 2018 due to administrative delays in submitting the resolution to the Board of Supervisors for approval (the proposed resolution was submitted by DPH on October 29, 2018) and in calendaring the resolution.

According to Ms. Jacquie Hale, Manager at DPH's Office of Contracts Management and Compliance, Toyon continues to meet performance requirements and has contributed to helping DPH respond to the work of the Centers for Medicare & Medicaid Services (CMS) to clear a backlog of their audits going back to 2004, as well as ensure compliance with filing required CMS reports.

FISCAL IMPACT**Contract Not-to-Exceed Amounts**

As noted above, the existing contract between DPH and Toyon is for a not-to-exceed amount of \$4,996,617. Under the proposed second amendment to the contract, DPH would increase contract amount by \$5,055,360 for a total contract amount of \$10,051,977, and extend the term to March 31, 2022, as shown in Table 1 below.

Table 1: Maximum DPH Payments to Toyon from April 1, 2014 through March 31, 2022

Year	San Francisco			Total
	General Hospital	Laguna Honda Hospital	Health at Home Agency	
2014-15	\$973,896	\$226,688	\$25,962	\$1,226,546
2015-16	983,265	230,132	26,712	1,240,109
2016-17	994,538	234,466	27,686	1,256,690
2017-18	1,005,810	238,801	28,661	1,273,272
2018-19	938,655	251,574	39,268	1,229,497
2019-20	950,824	254,923	40,354	1,246,101
2020-21	972,597	260,837	41,854	1,275,288
2021-22	994,370	266,750	43,354	1,304,475
TOTAL	\$7,813,955	\$1,964,171	\$273,852	\$10,051,977

Source: DPH

As noted above, Toyon's regulatory review and filing responsibilities are paid on a fee-for-service basis, depending on the services provided to three DPH providers: (1) San Francisco General Hospital, (2) Laguna Honda Hospital, and (3) Health at Home Agency. DPH pays Toyon

for appeals on Medicare and Medi-Cal report audits as a percentage of reimbursements realized by DPH. Table 2 below displays the maximum DPH is contractually allowed to pay Toyon for filing revenue reimbursements with Medicare and Medi-Cal and for appealing audits with Medicare and Medi-Cal with San Francisco General Hospital, Laguna Honda Hospital, and Health at Home Agency.

Table 2: Maximum DPH Payments to Toyon from April 1, 2014 through March 31, 2022

Payment Type	San Francisco General Hospital	Laguna Honda Hospital	Health at Home Agency	Total
Maximum Allowed Payment				
- Filing Revenue Reimbursements (Payment based on Fee-For-Service)	\$3,445,954	\$1,068,172	\$273,851	\$4,787,977
- Appealing Cost Audits (Payment Contingent on Outcome)	4,368,000	896,000	0	5,264,000
Total	\$7,813,954	\$1,964,172	\$273,851	\$10,051,977

Source: DPH

Actual Contract Expenditures and Reimbursements

In the first four years of the contract, DPH paid Toyon \$1,390,052 for filing revenue reimbursements with Medicare and Medi-Cal and for appealing audits with Medicare and Medi-Cal. According to Mr. Matthew Sur, Reimbursement Manager at San Francisco General Hospital, Toyon's appeals work has generated approximately \$15.5 million in total recovered reimbursement funds from Medicare and Medi-Cal audits for San Francisco General Hospital and Laguna Honda Hospital from FY 2015-16 through FY 2017-18, as shown in Table 5 below.

Table 3: Actual Revenues Generated by Toyon Contract from FY2015 – 17³

City Fiscal Year	End Date of Fiscal Year Audited ⁴	Medicare Notice of Payment Reimbursement (NPR) Date ⁵	Facility	Revenues Realized from Audit ⁶	Revenues Realized from Appeals Paid on Fee For Service Basis ⁷	Revenues Realized from Appeals Paid on Contingency Basis ⁸	Total Revenue Realized
FY15-16	6/30/2003	2/6/2015	ZSFG ⁹	\$ -	\$ 3,034,550	\$ -	\$ 3,034,550
FY15-16	6/30/2002	9/1/2015	ZSFG	\$ -	\$ 314,789	\$ -	\$ 314,789
		<i>Subtotal</i>		\$ -	\$ 3,349,339	\$ -	\$ 3,349,339
FY16-17	6/30/2007	2/24/2016	ZSFG	\$ 3,141,860	\$ -	\$ -	\$ 3,141,860
FY16-17	6/30/2006	6/20/2016	ZSFG	\$ 1,907,704	\$ -	\$ -	\$ 1,907,704
FY16-17	6/30/2006	7/27/2016	ZSFG	\$ -	\$ 197,111	\$ -	\$ 197,111
FY16-17	6/30/2008	12/22/2016	ZSFG	\$ 3,076,612	\$ -	\$ -	\$ 3,076,612
FY16-17	6/30/2001	2/15/2017	ZSFG	\$ -	\$ -	\$ 4,340	\$ 4,340
FY16-17	6/30/1999	4/27/2017	ZSFG	\$ -	\$ -	\$ 4,440	\$ 4,440
		<i>Subtotal</i>		\$ 8,126,176	\$ 197,111	\$ 8,780	\$ 8,332,067
FY17-18	6/30/2009	12/6/2017	ZSFG	\$ 715,208	\$ -	\$ -	\$ 715,208
FY17-18	6/30/2010	6/11/2018	ZSFG	\$ 852,961	\$ -	\$ -	\$ 852,961
FY17-18	6/30/2011	7/24/2018	ZSFG	\$ 2,217,416	\$ -	\$ -	\$ 2,217,416
FY17-18	1999-2011	10/14/2015	LHH ¹⁰	\$ -	\$ -	\$ 31,009	\$ 31,009
		<i>Subtotal</i>		\$ 3,785,585	\$ -	\$ 31,009	\$ 3,816,594
		Grand Total		\$ 11,911,761	\$ 3,546,450	\$ 39,789	\$ 15,498,000

Source: DPH

Almost all of the reimbursements realized by DPH were due to reimbursement for San Francisco General Hospital services. According to Mr. Sur, because San Francisco General Hospital is a large acute care teaching hospital that provides healthcare services to a disproportionate share of low-income individuals, it participates in complex programs and is able to claim additional reimbursement. In contrast, Laguna Honda Hospital, which is primarily

³ According to Mr. Sur, there were no settlements in FY14-15.

⁴ This identifies Fiscal Year with which the revenues realized were generated.

⁵ This is the date that DPH was notified by Centers for Medicare & Medicaid Services that they would be reimbursed the amount shown.

⁶ Medicare or Medicaid revenues received by DPH as a result of Toyon's audit work and paid to Toyon on a fee-for-service basis.

⁷ Medicare or Medicaid revenues received by DPH as a result of Toyon's work in preparing and filing appeals and paid to Toyon on a fee-for-service basis.

⁸ This is the Medicare or Medicaid revenues received by DPH as a result of Toyon's work in preparing and filing appeals, paid to Toyon on contingency basis as a percentage of revenues realized (percentage is either 15 percent if services were delivered by DPH on or after 4/1/2014 or 20 percent if services were delivered prior to 4/1/2014).

⁹ Zuckerberg San Francisco General Hospital

¹⁰ Laguna Honda Hospital

a skilled nursing facility, and Health at Home Agency are only able to participate in basic reimbursement programs, which limits the amount of additional claimable reimbursement opportunities (through audits and appeals).

Future Audits and Appeals

According to Mr. Sur, over the past four years, the CMS has set out to aggressively complete financial reimbursement audits for hospitals with open years. The DPH hospitals have been subjected to a significant increase in the number of active audits, and subsequent appeals of open reports related to the Medicare and Medicaid Waiver programs going back to FY 2003-04. Mr. Sur stated that despite the aggressive timeline, Medicare audits are still open going back to FY 2011-12, and Medicaid Waiver audits are open going back to FY 2008-09. In order to manage the increases in the number of audits, DPH has increased the contract budget with Toyon for filing revenue reimbursements. As a result of the increase in closed audits, DPH has increased the contract budget with Toyon for maximum allowable payments for audit appeals in anticipation of additional appeal opportunities.

RECOMMENDATION

Approve the proposed resolution.

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

Second Amendment

THIS AMENDMENT (this "Amendment") is made as of **April 1, 2018**, in San Francisco, California, by and between **Toyon Associates, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and
WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to amend the Agreement on the terms and conditions set forth herein to extend the performance period by exercising options stated in the RFP, "Proposals will be accepted for a contract awarded for a minimum of four (4) years, April 1, 2018 through March 31, 2022, with a possible option to renew for one (1) additional four (4) years term," increase the contract amount, and update standard contractual clauses and revise and Appendices A, B and E;

WHEREAS, approval for this Amendment was obtained when the Board of Supervisors approved Resolution number _____-18 on _____;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated April 1, 2014 between Contractor and City, as amended by the:

First amendment, dated October 1, 2014, contract numbers BPHG14000086 and BPHL14000032, and this amendment.

1b. Contract Monitoring Division. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2 of the Agreement currently reads as follows:

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from April 1, 2014 to March 31, 2018 with the following option:

1. April 1, 2018 through March 31, 2022.

Such section is hereby amended in its entirety to read as follows:

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be from April 1, 2014 to March 31, 2022 with the following option:

1. April 1, 2018 through March 31, 2022 (exercised)

2b. Section 5 of the Agreement currently reads as follows:

5. Compensation. Compensation shall be made in monthly payments on or before the 15th day of each month for work, as set forth in Section 4 of this Agreement, that the **Director of the Department of Public Health**, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Four Million Nine Hundred Ninety Six Thousand Six Hundred Seventeen Dollars (\$4,996,617)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Department of Public Health** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

5. Compensation. Compensation shall be made in monthly payments on or before the 15th day of each month for work, as set forth in Section 4 of this Agreement, that the **Director of the Department of Public Health**, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Ten Million Fifty-One Thousand, Nine Hundred Seventy-Seven Dollars (\$10,051,977)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Department of Public Health** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has

ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

2c. Appendix A-1 to A-7 dated October 1, 2014 is hereby replaced in its entirety with Appendix A-1 to A-7 dated April 1, 2018.

2d. Appendix B dated October 1, 2014 is hereby replaced in its entirety with Appendix B dated April 1, 2018.

2e. Appendix E, HIPAA Business Associate Addendum, is hereby deleted in its entirety and replaced with Appendix E, Business Associate Agreement, dated April 1, 2018.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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

To CITY: Office of Contract Management and Compliance
Department of Public Health
1380 Howard Street RM419c
San Francisco, California 94103
FAX: (415) 255-3636
e-mail: april.monegas@sfdph.org

And: Matthew Sur

Fiscal Office
2789 25th Street, 3rd Floor, Accounting
San Francisco, CA 94110
FAX: (415) 206-4488
e-mail: Matthew.Sur@sfdph.org

And: **For notices related to settlement agreements or services to be performed by an attorney or law firm**

Arnulfo Medina, Deputy City Attorney
San Francisco Office of the City Attorney Health and Human Services Division
1390 Market St. 7th Floor
San Francisco, CA 94102
e-mail: Arnulfo.Medina@sfgov.org

To CONTRACTOR: TOYON ASSOCIATES, INC.
1800 SUTTER STREET, SUITE 600
CONCORD, CA 94520
FAX: (925) 687-9013
e-mail: Ron.knapp@toyonassociates.com

Either party may change the address to which notice is to be sent by giving written notice thereof to the other party. If e-mail notification is used, the sender must specify a Receipt notice. Any notice of default must be sent by registered mail.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Toyon Associates, Inc.

Barbara A. Garcia Date
Director of Health

Thomas Knight Date
President

City Supplier ID: 0000009305

Approved as to Form:

Dennis J. Herrera
City Attorney

By:

Deputy City Attorney Date

Approved:

Jaci Fong Date
Director of the Office of Contract Administration,
and Purchaser

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Toyon Associates, Inc.

Barbara A. Garcia Date
Director of Health

Thomas Knight Date
President

City Supplier ID: 0000009305

Approved as to Form:

Dennis J. Herrera
City Attorney

By:

Deputy City Attorney Date

Approved:

Jaci Fong Date
Director of the Office of Contract Administration,
and Purchaser

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Toyon Associates, Inc.

Barbara A. Garcia Date
Director of Health

Thomas Knight Date
President

City Supplier ID: 0000009305

Approved as to Form:

Dennis J. Herrera
City Attorney

By:

Deputy City Attorney Date

Approved:

Jaci Fong Date
Director of the Office of Contract Administration,
and Purchaser

APPENDIX A-1

SFGH/COPC SCOPE OF WORK

SUMMARY

Toyon will provide regulatory reporting and reimbursement and revenue optimization services to the San Francisco Department of Public Health, for the benefit of San Francisco General Hospital/Community Outpatient Primary Care, Laguna Honda Hospital, and Health at Home Agency. Toyon's services will help increase the Medicaid and Medicare SSI Ratio Components of the Medicare Disproportionate share reimbursement, increase the reimbursement from the Medicare group appeal services, and other related goals under services to be agreed upon as, and in the manner, described below.

Toyon's "Public Hospital Services Team or Group" means the team of 12-13 consultants, analysts and programmers, led by Carrie Yee – Executive Director, focused on helping public hospitals optimize their cost reports and maximize reimbursements from government sponsored programs. The Public Hospital Services Group has specific expertise in Medi-Cal Certified Public Expenditure (CPE) and Intergovernmental Transfer (IGT) funded programs specific to public hospitals including the Medi-Cal waiver specific programs (i.e. DSRIP, LIHP, SNCP), Medi-Cal DSH, AB915 – Hospital Outpatient Supplemental Reimbursement, supplemental funding for Physician services under the State Plan, and Medi-Cal managed care SB208 (SPD IGT) and Rate Range IGT funding. In addition, they also assist county health systems with AB85 Realignment Redirection reporting and analysis.

Toyon's "Appeal Services Practice Team or Group" means the team of 8 consultants and analysts, led by Tom Knight, President and owner of Toyon Associates, focused in the recovery of Medicare & Medi-Cal reimbursements through the appeals process to obtain additional reimbursements for various types of hospitals. The Appeal Services Practice Group provides seamless integration of expert cost report preparation with proactive identification of issues which will require appeal.

San Francisco General Hospital/Community Outpatient Primary Care (SFGH/COPC)

All reports, responses, recommendations, information, settlements, or analysis developed by Toyon described herein, shall be provided to the City to Matthew Sur, SFGH Reimbursement Manager or Valerie Inouye, SFHN finance Director.

A. GENERAL SERVICES

Task 1

A Toyon V.P or Director will attend meetings either monthly or quarterly as directed by SFGH/COPC Management, to review the status of projects being performed, review findings from

contractual allowance analyses, establish priorities and discuss issues arising during the course of the engagement.

Task 2

Toyon will prepare the quarterly contractual allowance reviews for SFGH and COPC for the years 2018 through 2022 for the periods ending in February, June, September and November. The reviews will involve assessment of the adequacy of contractual allowance reserves and recorded cost report settlements that are on the general ledger. A Toyon V.P or Director will attend quarterly meetings with SFGH/COPC Management to review findings from contractual allowance analyses and make appropriate recommendations.

Task 3

Toyon will prepare interim rate reviews to the Fiscal Intermediary (FI)/Medicare Administrative Contractor (MAC) to ensure SFGH/COPC are reimbursed at proper interim rates that include validation of the bi-weekly Periodic Interim Payments received by SFGH for inpatient PPS acute services. Toyon will verify the prior years' settlement activities at SFGH for all open third-party cost report settlement accounts (including tentative settlements, finalized Notice of Program Reimbursements, etc.) to ensure accurate recording of activities and assessment of the reserves established for open cost reports for financial reporting purposes.

B. REIMBURSEMENT SERVICES

Task 4

Toyon will provide SFGH/COPC information regarding new and proposed laws/regulations impacting SFGH/COPC. A weekly email will be distributed covering new/proposed regulations and/or relevant changes on both a federal and state level. Toyon will work with SFGH/COPC staff to further educate them on the specific regulations that will or could impact the organization.

Task 5

Toyon will prepare the annual OSHPD reports for the FYE June 30, 2018, June 30, 2019, June 30, 2020 and June 30, 2021 using Toyon's proprietary automation software. During preparation of the OSHPD report, Toyon will analyze information specifically impacting other Medi-Cal reimbursements that include the Low-Income Utilization Ratio (LIUR) calculation. The report will be prepared to ensure accuracy and compliance, as required by OSHPD instructions. Toyon will report to SFGH staff the updates needed in quarterly OSHPD reports to reconcile to the annual OSHPD filing. Toyon will respond to all external audit inquiries from OSHPD reviewers.

Task 6

Toyon will prepare the SFGH FYE June 30, 2018, June 30, 2019, June 30, 2020 and June 30, 2021 Medicare and Medi-Cal cost reports using Toyon's proprietary automation software and prepare the Curry Senior Center Medicare and Medi-Cal cost and reconciliation reports. The reports will be prepared in compliance with all applicable laws, regulations and instructions, to be filed within the reporting guidelines required by the respective programs (typically five months after the end of a fiscal year). All applicable cost report schedules will be completed including Acute, Acute Psychiatric, Teaching Program, FQHC, Renal Dialysis, etc. for filing to the MAC and State of California Department of Health Care Services (DHCS). Appeal rights will be preserved through the use of the protested amounts section of the cost report and issues that are annually identified and updated by Toyon's Appeals Practice Group. The cost report preparation will also include the completion of:

Cost Report DSH related services include the following:

- DSH Eligible Days listing using the Point of Service System for Cost Report Filing
- DSH Eligible Day list completion based on the Historical Eligibility System and Toyon's proprietary system. This list will be prepared 13 months after the end of each cost report year, for purposes of optimizing the Medi-Cal eligible days for cost report finalization purposes.

Other areas of analysis, review and follow-up related to these cost reports include:

- Review wage data used for cost report filing and subsequent true-up of wage data during the CMS annual process for the development of new Medicare wage indices.
- Prepare and review the Occupational Mix filing required once every three years.
- Analyze and follow-up concerning Intern and Resident FTE recording and subsequent follow-up needed to clear over-lap issues with other health care organizations.
- Review and advise to update the time study capturing by SFGH for the identification of the Part A/B time allocation for staff physicians.
- Review the SFGH/COPC general ledger grouping used for both Cost Report and OSHPD report filings to ensure conformity with prescribed instructions.

Task 7

Based upon the results of the cost report preparation (Task 6), Toyon will prepare estimated reimbursement settlements and recommendations that may include:

- Recording of the appropriate Medicare/Medi-Cal cost report receivable/payable (filed vs. reserved) for general ledger recording purposes.
- Improving SFGH and COPC records and/or supporting documentation.
- Identifying reimbursement optimization for SFGH and COPC costs under the Section 1115 Waiver and any subsequent Waivers.
- Preparing for Medicare MAC audits of all open cost reports covering 6/30/07 to 6/30/17.

Task 8

Toyon will respond to questions raised by MACs or state agencies after filing and during the audits of the cost reports. Toyon will also evaluate the impact of proposed audit adjustments relative to SFGH/COPC's Medicare and Medi-Cal cost reports for FYE June 30, 2007 and subsequent fiscal periods. In addition, Toyon will review the auditors' work papers and determine the propriety of proposed adjustments. The purpose is to minimize adjustments to the SFGH/COPC reimbursement claims and to determine what issues should be disputed through appeals.

Task 9

Under Toyon's Public Hospital Services Team, Toyon will review the Medi-Cal Administrative Activities (MAA) quarterly financial claims for the period ending June 30, 2018, June 30, 2019, June 30, 2020 and June 30, 2021 to ensure accuracy, completeness and compliance of the reports with the Policy and Procedures Letters and State Claiming Plans. Toyon will respond to all audit inquiries.

Task 10

Under Toyon's Appeal Services Practice Group, Toyon will pursue all Medicare and Medi-Cal appeals related to fiscal years 1996 – 2021 and all subsequent audited cost report periods. This process includes evaluation of issues, researching, developing documentation, preparing position papers, and representing SFGH/COPC at appeal or mediation hearings at the administrative level. The goal will be to obtain administrative resolution on appealed issues whenever possible and to ensure SFGH/COPC's appeal rights are protected. Toyon will seek to maximize all appeal recoveries under the current reimbursement rules and regulations. If Toyon decides to retain an attorney or a law firm to perform any services under this Agreement, including services related to administrative proceedings Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of this Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

Task 11

Under Toyon's Public Hospital Service Team, Toyon will review the Assembly Bill 915 – Medi-Cal Outpatient Fee-for-Service Supplemental claims for periods ending June 30, 2018, June 30, 2019, June 30, 2020 and June 30, 2021. Toyon will also assist in the SNF wage pass-through and DP SNF supplemental claiming activities. The purpose of the reviews is to ensure compliance with claiming regulations and to ensure accuracy in the information being reported. As part of this review, Toyon will analyze the information specific to the Medi-Cal Outpatient Upper Payment Limit. Typically, the information used for this process is obtained through the purchase of paid claims reports. Toyon

does not believe that a logging process is needed for this program. Toyon will respond to all audit inquiries.

Task 12

Toyon's Public Hospital Service Team will respond to technical questions related to the P14 filings, the AB 85 Realignment filings and other areas impacting County hospital reporting.

Task 13

Toyon will assist the COPC with the Medi-Cal audits of the reconciliation report for capturing the wrap around entitlements due FQHCs. Toyon will work with the auditors to minimize audit adjustments. Should an appeal be necessary, Toyon will evaluate the issues and documentation for the adjustments and file the appeal from the finalized reports. Toyon will represent the COPC at appeal through the informal, and if necessary, the formal level processes afforded providers with the State. If needed at the formal level, Toyon will engage a mutually-agreed attorney to represent COPC at the formal level. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.

Task 14

Upon request by SFGH/COPC, Toyon will assist on other reimbursement-related projects that could increase reimbursement to the organization.

C. SERVICES TO INCREASE THE MEDICAID RATIO AND SSI RATIO COMPONENTS OF MEDICARE DISPROPORTIONATE REIMBURSEMENT (DSH)

Toyon will pursue increases to the Medicaid and SSI ratios used to calculate Medicare DSH entitlements for fiscal years 1986 and after. Further, Toyon will develop strategies to ensure optimization of data used to allocate the new DSH Uncompensated Care DSH reimbursements effective October 1, 2013. DSH-related issues Toyon will pursue through appeal include, but are not limited to:

1. Dual Eligible – Medicare Part C days
2. Dual Eligible – Medicare Part A exhausted days
3. Dual Eligible – Medicare Part A non-covered days and secondary insured days.

4. Medicaid Restricted eligibility days.
5. Additional Medicaid eligible days not allowed at audit.
6. Accuracy of the SSI Ratio.
7. Additional Medicare SSI eligible days.
8. Exclusion of Medicare Part C Days and Unpaid Part A Days from the SSI Ratio.

Toyon will utilize its DSH and Appeal Services Group to perform the following:

1. Document additional Medicaid eligible days and corrections to the SSI Ratio for pursuing through appeals.
2. Toyon's Appeal Services Group will file Medicare appeals, preliminary and final position papers, jurisdictional briefs and administrative resolution proposals.
3. If an administrative resolution is not possible, Toyon will represent SFGH in Provider Reimbursement Review Board (PRRB) Hearings. This includes development of strategies and presentation of expert witness testimony.
4. Should an unfavorable PRRB decision be issued, Toyon will notify SFGH/COPC and provide a recommendation as to whether to institute litigation. However, before any lawsuit is filed, Toyon must first advise the City Attorney and obtain approval from the City Attorney both for the filing of the lawsuit and for the selection of the law firm to be used. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.

Compensation For These Services Will Be On A Contingency Fee & No Fees Or Expenses Are Due TOYON Unless Additional Reimbursement Is Realized

Period when appeal was originally filed	Cumulative Additional Reimbursement Generated Each Contract Year April Through March	Contingency Fee Percentage
Prior to 4/1/2014	\$1 though \$4,000,000	20%
On or After 4/1/2014	\$1 though \$4,000,000	15%

Payments for these services will be calculated per the above schedule as a percentage of the additional Medicare DSH reimbursement realized as a result of Toyon's work. The additional reimbursement will either be a payment to SFGH by the Medicare Intermediary or a reduction of an outstanding liability

D. INDIVIDUAL OR GROUP APPEALS

FSP ID#:
 1000002746 (SFGH)
 1000002907 (LHH)
 CMS #7435

TOYON will advise SFGH of additional appeal issue(s) that it believes should be pursued. If SFGH agrees to pursue the issue(s), DPH will sign and execute an Amendment to this Agreement with TOYON, in the same manner and upon the same essential terms as this Agreement. If SFGH agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Section B, Task 10 above.

If SFGH agrees to pursue the issue(s) on a contingent fee basis, the applicable percentage rate will be set forth in the Amendment and will be subject to the same provisions as in Task 10.

Currently, there are three separate group appeals which are being pursued on a contingent fee basis in addition to the various Medicaid Ratio and SSI Ratio appeals. These three different appeals are: IME & GME Managed Care Appeals, Budget Neutrality/PPS Standardized Amount Appeals, and the Two-Midnight Rule/Policy Appeals. Copies of each of the signed agreements are attached and serve as Amendments to this Agreement.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.

E. PROFESSIONAL SERVICES

There are times when DPH will require additional professional services. DPH shall submit a written request to TOYON with a Scope of Service. TOYON and DPH shall sign and execute an Amendment to this Agreement, in the same manner and upon the same essential terms as this Agreement, and agree on number of hours and the estimated fees required to complete the project(s). DPH will supplement this contract with additional funds to cover the additional services.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.

APPENDIX A-2

SCOPE OF WORK

Laguna Honda Hospital (LHH)

All reports, responses, recommendations, information, settlements, or analysis developed by Toyon described herein, shall be provided to the City to Teresa Tan, LHH Fiscal Operations Manager or Chia Yu Ma, LHH Chief Financial Officer.

A. GENERAL SERVICES

Task 1

Toyon will attend four on-site meetings to be scheduled annually with Toyon engagement executive and LHH management. Conference calls will be scheduled on an as-needed basis regarding audits, cost report preparation, or other significant reimbursement issues.

B. REIMBURSEMENT SERVICES

Task 2

Toyon will assist Administrative Staff to analyze, interpret, and determine potential financial impact associated with new and proposed laws/regulations.

Task 3-4

Toyon will prepare the annual LHH Medicare and Medi-Cal cost reports and the Annual OSHPD Financial Disclosure Report using Toyon's proprietary automation software. The reports will be prepared in compliance with all applicable laws, regulations and instructions and within the filing deadlines required by Medicare and OSHPD. A work plan will be developed with LHH's CFO/Controller and regular progress reports will be provided. The report will be filed to ensure that all areas impacting reimbursement are optimally reported. LHH is primarily a skilled nursing facility (SNF) provider. The focus of preparation will involve the proper reporting of SNF costs for future Medi-Cal reimbursement purposes. Toyon will provide recommendations to ensure conformity with applicable regulations, including but not limited to:

- Review Wage Index and Occupational Mix Data for accuracy.
- Prepare revenue analysis and projections, as requested. LHH does not have an automated logging system
- Reconcile general ledger revenues to PS&R summary.
- Develop a methodology to extract ASC; Radiology and Other Part B charges.
- Develop a methodology to allocate physician compensation and Part A vs. Part B vs. teaching time to assigned cost centers.

Task 5

Based on the results of the cost report preparations (Task 4), Toyon will prepare and present a management report. LHH has little to no cost report settlement in the cost report filing. The management report primarily will involve a comparison of key data from year to year and quantitative analysis and recommendations for as-filed and audited cost reports.

Task 6

Toyon will reply to questions from the MAC or State Agencies concerning the cost reports filed and will support the process of audits performed for the cost reports. Toyon will also evaluate the impact of proposed audit adjustments relative to LHH's Medicare and Medi-Cal cost reports for FYE June 30, 2007 and subsequent fiscal periods. Toyon will work to minimize the audit adjustments and will identify issues for potential appeal.

Task 7

Toyon will prepare an interim rate review and cost settlement analysis for review by LHH's external financial auditors as part of the year-end process for the fiscal years identified under this agreement. The review will be completed based on collaboration with LHH's CFO/Controller.

Task 8

Toyon will pursue all viable Medicare and Medi-Cal appeals related to all open cost report settlements. Toyon will research all issues and develop documentation for preparation of position papers to Medicare and Medi-Cal. The purpose is to recover entitled reimbursement dollars through the appeal process. If settlement agreements are proposed, Toyon will provide a summary of the agreements to LHH and the City Attorney, along with its recommendations. If Toyon decides to retain an attorney or a law firm to perform any services under this Agreement, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of this Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.

Task 9

Toyon will participate in Medicare and Medi-Cal audits and attend entrance and exit conferences as requested by LHH's CFO/Controller to facilitate audits that result in minimal adjustments impacting reimbursement.

Task 10

Toyon will review the DP/NF supplemental claims methodology to ensure conformity with regulations and optimize allowable reimbursement under the guidelines of the program, including the consideration of any subsequent impact to/from other reimbursement programs and related adjustments.

Task 11

Under Toyon's Public Hospital Service Team, Toyon will review the AB 915 Medi-Cal Outpatient fee-for-service supplemental claims covering the fiscal years in the term of this agreement. The purpose of the review is to ensure compliance and accuracy in the reported filing.

Task 12

Toyon will prepare quarterly contractual allowance reviews for LHH for the years identified in the term of this agreement. The review will involve the assessment of the adequacy of contractual allowance reserves on the general ledger for financial reporting purposes. A Toyon V.P or Director will attend quarterly meetings with LHH Management to review findings from contractual allowance analyses and make appropriate recommendations.

Task 13

Toyon will assist LHH with various other projects that will increase reimbursement upon request from LHH management. Toyon will also assist LHH with other reimbursement programs and/or supplemental claims submitted by the hospital, in the event of any disallowances by the State or federal agencies, to research on related legislations and perform financial analysis in order to appeal or resubmit claims to optimize reimbursements. This may include by not limited to:

- Review the ability to change the life of the new building for depreciation calculation and refile Medi-Cal Cost Report if necessary.
- Review the ability to change the number of years used for amortization of the capitalized interest.
- Create schedules to remove depreciation and interest associated with the bond funding that were reimbursed under SB1128 program from Medi-Cal Cost Report, but include the amortized capitalized interest.
- Recalculate and refile Medi-Cal Cost Reports as needed.
- Recalculate the revenue reserve for the periods prior to correct filing.
- Note: basic cost report analysis work should be covered by Task 3-4, and other activities related to the refiling of Medi-Cal Cost Reports should be charged Fee-for-Service under Task 13.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

C. INDIVIDUAL OR GROUP APPEALS

TOYON will advise LHH of appeal issue(s) that it believes should be pursued. If LHH agrees to pursue the issue(s), DPH will sign and execute an Amendment to this Agreement with TOYON, in the same manner and upon the same essential terms as this Agreement, for each of the appeals which it wishes to participate on a contingency fee basis. If LHH agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Section B, Task 8 above. This will include all appeals that are formed prior and during the length of this agreement for which LHH wishes to participate.

Compensation For Services On A Contingency Fee Basis & No Fees Or Expenses Are Due TOYON Unless Additional Reimbursement Is Realized

Period when appeal was originally filed	Cumulative Additional Reimbursement Generated Each Contract Year April Through March	Contingency Fee Percentage
Prior to 4/1/2014	\$1 though \$666,666	20%
On or After 4/1/2014	\$1 though \$666,666	No more than 15%

Payments for these services will be calculated per the above schedule as a percentage of the additional reimbursement realized as a result of Toyon's work. The additional reimbursement will either be a payment to LHH by the Intermediary or a reduction of an outstanding liability.

Individual or Group appeal services provided by Toyon (not related to DSH), prior to 4/1/2014 as defined in this contract, will be paid under the agreed upon Contingency Fee Percentage Rate during the contract period for which the original appeal was filed.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

D. PROFESSIONAL SERVICES

There are times when DPH will require additional professional services. LHH shall submit a written request to TOYON with a Scope of Service. TOYON and DPH shall sign and execute an Amendment to this Agreement, in the same manner and upon the same essential terms as this Agreement, and agree on number of hours and the estimated fees required to complete the project(s). DPH will supplement this contract with additional funds to cover the additional services.

Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

APPENDIX A-3

SCOPE OF WORK

Health at Home Agency (HAH)

All reports, responses, recommendations, appeals, information, settlements, or analysis developed by Toyon described herein, shall be provided to the City to Lily Ng, HAH Business Manager.

HOME CARE REIMBURSEMENT AND COST REPORTING

Task 1

Toyon will assist administrative staff to analyze, interpret and determine potential financial impact associated with new and proposed laws/regulations.

Task 2

Toyon will prepare HAH's Medicare cost report for the fiscal periods under this agreement. The report will be prepared in conjunction with HAH staff and will allow adequate time for review of the report. The report will be completed within the reporting timeframe established by the Medicare program. Given the prospective payment nature of the reimbursement, this filing is largely compliance in nature and typically has no cost report settlement. Current availability of Medicare payment summary information has largely eliminated the need for Medicare logs.

Task 3

Toyon will respond to any inquiries from the intermediary for the Medicare cost reports filed under this agreement during the desk review process. These reports are no longer audited, as the reimbursement is under a prospective payment system (PPS) without any settlements due to/from implications.

Task 4

Upon the request of HAH management, Toyon will present to HAH business and administrative staff written recommendations that will help HAH improve record keeping for the cost report filing, which could help future reimbursement.

Task 5

Toyon will assist HAH with other projects that could help improve reimbursement upon request from HAH management. TOYON and DPH shall sign and execute an Amendment to this Agreement, in the same manner and upon the same essential terms as this Agreement, and agree on number of hours and the estimated fees required to complete the project(s). DPH will supplement this contract with additional funds to cover the additional services.

If Toyon decides to retain an attorney or a law firm to perform any services under this Agreement, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in

writing, in the manner described in the Notices Section (Section 25) of this Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

Appendix A-4

IME & GME MANAGED CARE APPEAL

Pursuant to the provisions of Section D of Appendix A-1 of the Agreement, Toyon proposes to pursue additional Medicare indirect medical education (IME) and/or graduate medical education (GME) reimbursement applicable to Medicare managed care enrollees through a group appeal.

1. Background

The Medicare Program has established procedures which Providers of healthcare services must follow to pursue appeals of Medicare cost report audit adjustments. The Medicare regulations governing the administrative appeal process may be found at 42 CFR 405.1801-1889. The entity in charge of the appeal process is called the Provider Reimbursement Review Board (PRRB) and it has the authority to render decisions on all Provider cost report appeals. If the PRRB renders a decision that a Provider disagrees with, the Provider may pursue the matter through the judicial system.

2. Scope of Services

Toyon will pursue additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees on behalf of San Francisco General Hospital (SFGH). Toyon's services will include, but are not limited to the following:

1. Prepare and file appeal letters to the Provider Reimbursement Review Board (PRRB) to establish Medicare appeals for additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees.
2. Establish a Group Appeal for the pursuit of additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees.
3. Develop appeal strategy, perform research, and obtain documentation needed to pursue the disputed issue.
4. Prepare and file preliminary and final position papers.
5. Review the Intermediary's preliminary and final position papers.
6. Attempt to obtain an administrative resolution with the Intermediary in advance of a PRRB hearing.
7. Represent SFGH at the PRRB hearing if an administrative resolution cannot be obtained. This includes preparation of testimony, evidence, and hearing strategy.
8. If Toyon decides to retain an attorney or a law firm to perform any services under this Appendix, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of the Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.
9. Perform all follow up needed with the Medicare Program with respect to this appeal.

10. Review any revised settlements resulting from this appeal and any hearing decisions and provide recommendations to San Francisco General Hospital.
11. Should an unfavorable PRRB decision be issued, Toyon will notify SFGH and provide a recommendation as to whether to institute litigation. However, before any lawsuit is filed, Toyon must first advise the City Attorney and obtain approval from the City Attorney both for the filing of the lawsuit and for the selection of the law firm to be used. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

3. Fiscal Periods

The terms of this Appendix will cover all cost reporting periods ending in calendar years 1998 through 2022.

4. Compensation

Payment for the services set forth in this Appendix will be calculated at 20% of the additional Medicare reimbursement realized by SFGH as a result of Toyon's work. The additional reimbursement will either be a payment to SFGH by the Medicare Intermediary or a reduction of an outstanding liability. Payment is due to Toyon within 30 days of the SFGH's receipt of reimbursement from the Medicare Intermediary or notification that its liability has been decreased. No fees or expenses are due to Toyon unless additional reimbursement is realized.

5. Term

The terms in this Agreement will be effective from November 4, 2008 until the expiration or earlier termination of the professional services Agreement of which this Appendix is made a part of.

Appendix A-5

RURAL FLOOR BUDGET NEUTRALITY APPEAL

Pursuant to the provisions of Section D of Appendix A-1 of the Agreement, Toyon proposes to pursue additional Medicare indirect medical education (IME) and/or graduate medical education (GME) reimbursement applicable to Medicare managed care enrollees through a group appeal.

1. Background

The Medicare Program has established procedures which Providers of healthcare services must follow to pursue appeals of Medicare cost report audit adjustments. The Medicare regulations governing the administrative appeal process may be found at 42 CFR 405.1801-1889. The entity in charge of the appeal process is called the Provider Reimbursement Review Board (PRRB) and it has the authority to render decisions on all Provider cost report appeals. If the PRRB renders a decision that a Provider disagrees with, the Provider may pursue the matter through the judicial system.

2. Scope of Services

Toyon will pursue additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees on behalf of San Francisco General Hospital (SFGH). Toyon's services will include, but are not limited to the following:

1. Prepare and file appeal letters to the Provider Reimbursement Review Board (PRRB) to establish Medicare appeals for additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees.
2. Establish a Group Appeal for the pursuit of additional Medicare IME and/or GME reimbursement related to Medicare managed care enrollees.
3. Develop appeal strategy, perform research, and obtain documentation needed to pursue the disputed issue.
4. Prepare and file preliminary and final position papers.
5. Review the Intermediary's preliminary and final position papers.
6. Attempt to obtain an administrative resolution with the Intermediary in advance of a PRRB hearing.
7. Represent SFGH at the PRRB hearing if an administrative resolution cannot be obtained. This includes preparation of testimony, evidence, and hearing strategy.
8. If Toyon decides to retain an attorney or a law firm to perform any services under this Appendix, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of the Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.
9. Perform all follow up needed with the Medicare Program with respect to this appeal.

10. Review any revised settlements resulting from this appeal and any hearing decisions and provide recommendations to San Francisco General Hospital.
11. Should an unfavorable PRRB decision be issued, Toyon will notify SFGH and provide a recommendation as to whether to institute litigation. However, before any lawsuit is filed, Toyon must first advise the City Attorney and obtain approval from the City Attorney both for the filing of the lawsuit and for the selection of the law firm to be used. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.

3. Fiscal Periods

The terms of this Appendix will cover all cost reporting periods ending in calendar years 1998 through 2022.

4. Compensation

Payment for the services set forth in this Appendix will be calculated at 20% of the additional Medicare reimbursement realized by SFGH as a result of Toyon's work. The additional reimbursement will either be a payment to SFGH by the Medicare Intermediary or a reduction of an outstanding liability. Payment is due to Toyon within 30 days of the SFGH's receipt of reimbursement from the Medicare Intermediary or notification that its liability has been decreased. No fees or expenses are due to Toyon unless additional reimbursement is realized.

5. Term

The terms in this Agreement will be effective from November 4, 2008 until the expiration or earlier termination of the professional services Agreement of which this Appendix is made a part of.

Appendix A-6

MEDICARE APPEAL SERVICES for the "TWO-MIDNIGHT RULE/POLICY" DISPUTE

Pursuant to the provisions of Section D of Appendix A-1 of the Agreement, Toyon proposes to provide Medicare Program appeal related services for the Two-Midnight Rule/Policy Dispute.

1. Background

Within the FY 2014 IPPS Final Rule published on August 19, 2013, CMS instituted a 0.2 percent rate cut. CMS justified this rate cut as necessary in order to ensure that the application of the new "two-midnight" rule / policy did not lead to an aggregate increase in yearly IPPS payments for the Medicare program. During the notice and comment period for the FY 2014 IPPS rule, comments were made that identified the existence of statistical errors in CMS' underlying calculations that supported the rate cut. CMS justified the rate cut on the basis that the two-midnight rule (which presumes that hospital inpatient stays of two days are longer are medically necessary) would lead to a net increase of 40,000 inpatient cases per year. However, an independent analysis of CMS's own data has been made and the overwhelming conclusion is the two-midnight rule would lead to a substantial decrease in inpatient stays and a large increase in outpatient encounters. Many hospital systems have analyzed the impact on their own reimbursement and have reached the same conclusion. In other words, the financial impact of the two midnight rule on providers should result in a payment *increase*, not a payment decrease. There is no substantial evidence to support CMS' conclusion, thus making the rule legally invalid.

The Medicare Program allows hospitals to appeal final determinations that originate through Medicare Administrative Contractor (MAC) determinations and *Federal Register* notifications. The regulation is 42 C.F.R. § 405.1835. The services set forth in this agreement are for the purpose of increasing the hospital's Medicare reimbursement through the Medicare appeal process.

2. Scope of Services

Medicare Appeal Services

TOYON will pursue Medicare cost report appeals, cost report reopenings and/or appeals of final determinations issued by CMS on behalf of San Francisco General Hospital (SFGH) in pursuit of its challenge to CMS' implementation of the two-midnight rule/policy. Toyon's services will include, but are not limited to the following:

- Review the audited cost reports, Intermediary Workpapers, and *Federal Register* notices to determine the issues to be appealed and/or reopened. All issues that impact Medicare reimbursement may be pursued. The issues to be appealed / reopened may include, but are not limited to, disproportionate share, bad debts, wage index, PPS standardized amounts, allowable costs, cost finding statistics, and cost apportionment statistics. Issues may be pursued even if the time period for administrative appeal rights has been exhausted.
- Prepare and file appeal letters to the Provider Reimbursement Review Board (PRRB) to establish Medicare appeals (if not already done), to add issues to existing appeals, and/or to transfer issues to group appeals.

- Develop appeal strategy, perform research, and obtain documentation needed to pursue disputed issues.
- Prepare and file cost report reopening requests if appropriate.
- Prepare and file preliminary and final position papers.
- Review the Intermediary's preliminary and final position papers.
- Attempt to obtain administrative resolutions with the Intermediary in advance of scheduled hearings.
- If Toyon decides to retain an attorney or a law firm to perform any services under this Appendix, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of the Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.
- Perform all follow up needed with the Medicare Program with respect to appeals and reopening requests.
- Review any revised settlements resulting from appeals or reopenings and any hearing decisions and provide recommendations to SFGH.
- Should an unfavorable PRRB decision be issued, Toyon will notify SFGH and provide a recommendation as to whether to institute litigation. However, before any lawsuit is filed, Toyon must first advise the City Attorney and obtain approval from the City Attorney both for the filing of the lawsuit and for the selection of the law firm to be used. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services. If a settlement is proposed, Toyon will provide a summary of such settlement to the City Attorney along with its recommendations.
- Pursue issues directly to court or use expedited jurisdictional review if, in TOYON'S opinion, such action is deemed warranted.

3. San Francisco General Hospital Fiscal Periods

This Appendix applies to the dispute described in Section 1 and the appeal services described in Section 2 for San Francisco General Hospital, federal fiscal periods beginning 10/1/2013 through 3/31/2022. Additional federal fiscal years may be added to this agreement by written amendment executed by both parties.

4. Compensation

Payment for Medicare appeal services set forth in this Agreement will be calculated as 10% of the additional Medicare reimbursement realized by SFGH as a result of Toyon's work. Any previously executed Medicare appeal agreements that overlap this agreement remain in full force and effect and are not superseded or modified by the parties' execution of this agreement.

The additional reimbursement resulting from a successful appeal will either be a payment to SFGH by the Medicare Program or a reduction of an outstanding liability. Payment is due to Toyon within 30 days of SFGH'S receipt of additional reimbursement or notification that its liability has been decreased. No fees or expenses are due to Toyon unless additional reimbursement is realized.

5. **Term**

The terms in this Agreement will be effective from April 1, 2014 until the expiration or earlier termination of the professional services Agreement of which this Appendix is made a part of.

Appendix A-7

Medicare Appeal of CY 2015 Market Basket Update Decision by CMS dated May 1, 2015

Pursuant to the provisions of Section D of Appendix A-1 of the Agreement, Toyon propose to pursue an appeal of the CMS decision dated May 1, 2015, denying the full market basket update for calendar year 2015 on a contingent fee basis. A copy of the CMS decision which will be appealed is enclosed.

Services:

Toyon will perform the following services:

1. Research facts and develop arguments.
2. File an appeal with the PRRB.
3. Take care of all communications with the PRRB and CMS on this matter.
4. Prepare position papers as needed.
5. Develop strategy for PRRB hearing.
6. If Toyon decides to retain an attorney or a law firm to perform any services under this Appendix, including services related to administrative or legal proceedings, Toyon will notify the City Attorney in writing, in the manner described in the Notices Section (Section 25) of the Agreement. Pursuant to Section 54 of the Agreement, any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will not be paid unless the attorney or law firm received advance written approval from the City Attorney for such services.
7. Represent San Francisco General Hospital (SFGH) at the PRRB hearing.
8. Review any PRRB decision and advise SFGH as to any further recommended actions.

Compensation:

Payment for the services set forth in this Appendix will be calculated as 15% of the additional Medicare reimbursement realized by SFGH as a result of Toyon's work. The additional reimbursement will either be a payment to the Hospital by the Medicare Intermediary or a reduction of an outstanding liability. Payment is due to Toyon within 30 days of the Hospital's receipt of reimbursement from the Medicare Intermediary or notification that its liability has been decreased. No fees or expenses are due to Toyon unless additional reimbursement is realized.

Appendix B
Calculation of Charges
For SFGH/COPC, HAH, & LHH

1. Method of Payment

A. Appendix B-1a – B-5d are attached in the original agreement dated April 1, 2018.

Professional Fees

CONTRACTOR shall submit monthly invoices by the fifteenth (15th) working day of each month, in the format attached in Appendix F, based upon the number of units of service that were delivered in the immediately preceding month. All deliverables associated with the Services listed in Section 2 of Appendix A, times the unit rate as shown in the Program Budgets listed in Section 2 of Appendix B shall be reported on the invoice(s) each month.

Expenses

Contractor shall submit monthly invoices in the format attached in Appendix F, by the fifteen (15th) working day of each month for reimbursement of the actual costs for Services of the immediately preceding month. All costs associated with the Services shall be reported on the invoice each month. All costs incurred under this Agreement shall be due and payable only after Services have been rendered and in no case in advance of such services.

B. Appendix B-2 and B-4

Contractor shall submit an invoice within thirty (30) days of notification that SFGH/COPC and/or LHH have received additional reimbursement for services identified in Appendix B-2 and Appendix B-4. The invoice amounts will be calculated as 10-15% of the additional reimbursement received by SFGH/COPC and/or LHH. No professional fees or expenses will be billed to SFGH/COPC and/or LHH for these services unless recoveries are made.

2. Program Budgets and Final Invoice

A. Program Budgets are listed below and are attached in the original agreement dated April 1, 2014.

Budget Summary

Appendix B-1a SFGH/COPC April 1, 2018 – March 31, 2019

Appendix B-1b SFGH/COPC April 1, 2019 – March 31, 2020

Appendix B-1c SFGH/COPC April 1, 2020 – March 31, 2021

Appendix B-1d SFGH/COPC April 1, 2021 – March 31, 2022

Appendix B-2 Budget for Compensation for Appeal Services paid only if SFGH receives additional reimbursement, known as Contingent Fee Services

Appendix B-3a LHH April 1, 2018 – March 31, 2019

Appendix B-3b LHH April 1, 2019 – March 31, 2020

Appendix B-3c LHH April 1, 2020 – March 31, 2021

Appendix B-3d LHH April 1, 2021 – March 31, 2022

Appendix B-4 Budget for Compensation for Appeal Services paid only if LHH receives additional reimbursement, known as Contingent Fee Services

Appendix B-5d HAH April 1, 2018 – March 31, 2019

Appendix B-5b HAH April 1, 2019 – March 31, 2020

Appendix B-5c HAH April 1, 2020 – March 31, 2021

Appendix B-5d HAH April 1, 2021 – March 31, 2022

B. COMPENSATION

Compensation shall be made in monthly payments on or before the 30th day after the Contract Administrator, in his or her sole discretion, has approved the invoice submitted by CONTRACTOR. The breakdown of costs and sources of revenue associated with this Agreement appears in Appendix B-1a through B-5d, Cost Reporting/Data Collection (CR_DC) and Program Budget, attached hereto and incorporated by reference as though fully set forth herein. The maximum dollar obligation of the CITY under the terms of this Agreement shall not exceed **Ten Million Fifty-One Thousand, Nine Hundred Seventy-Seven Dollars (\$10,051,977)** from April 1, 2014 through March 31, 2022.

The Contractor understands that, of this maximum dollar obligation, \$1,263,840 is solely for the purpose of additional reimbursement for services identified in Appendix B-2 and Appendix B-4.

Contractor understands that, of this maximum dollar obligation, \$541,646 is included as a contingency amount and is not to be used on Appendix B, Budget, or be available to Contractor without a modification to this Agreement executed in the same manner as this Agreement or a revision to Appendix B, Budget, which has been approved by the Contract Administrator. Contractor further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable CITY and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by the Controller. Contractor agrees to fully comply with these laws, regulations, and policies/procedures.

(1) For each fiscal year of the term of this Agreement, CONTRACTOR shall submit for approval of the CITY's Department of Public Health a revised Appendix A, Description of

Services, and a revised Appendix B, Program Budget and Cost Reporting Data Collection form, based on the CITY's allocation of funding for SERVICES for the appropriate fiscal year. CONTRACTOR shall create these Appendices in compliance with the instruction of the Department of Public Health. These Appendices shall apply only to the fiscal year for which they were created. These Appendices shall become part of this Agreement only upon approval by the CITY.

(2) CONTRACTOR understands that, of the maximum dollar obligation stated above, the total amount to be used in Appendix B, Budget and available to CONTRACTOR for the entire term of the contract is as follows, notwithstanding that for each fiscal year, the amount to be used in Appendix B, Budget and available to CONTRACTOR for that fiscal year shall confirm with the Appendix A, Description of Services, and Appendix B, program Budget and Cost Reporting Data Collection form, as approved by the CITY's Department of public Health based on the CITY's allocation of funding for SERVICES for that fiscal year.

Initial Term	SFGH	HAH	LHH	TOTAL
April 1, 2014 through March 31, 2015	\$869,550	\$23,180	\$202,400	\$1,095,130
April 1, 2015 through March 31, 2016	\$877,915	\$23,850	\$205,475	\$1,107,240
April 1, 2016 through March 31, 2017	\$887,980	\$24,720	\$209,345	\$1,122,045
April 1, 2017 through March 31, 2018	\$898,045	\$25,590	\$213,215	\$1,136,850
Subtotal: April 1, 2014 through March 31, 2018	\$3,533,490	\$97,340	\$830,435	\$4,461,265
12% Contingency	\$424,019	\$11,681	\$99,652	\$535,352
Subtotal: April 1, 2014 through March 31, 2018	\$3,957,509	\$109,021	\$930,087	\$4,996,617
2ND AMENDMENT				
April 1, 2018 through March 31, 2019	\$838,085	\$35,060	\$224,620	\$1,097,765
April 1, 2019 through March 31, 2020	\$848,950	\$36,030	\$227,610	\$1,112,590
April 1, 2020 through March 31, 2021	\$868,390	\$37,370	\$232,890	\$1,138,650
April 1, 2011 through March 31, 2022	\$887,830	\$38,710	\$238,170	\$1,164,710
Subtotal: April 1, 2018 through March 31, 2019	\$3,443,254	\$147,170	\$923,290	\$4,513,714
12% Contingency	\$413,191	\$17,660	\$110,795	\$541,646
Subtotal: April 1, 2018 through March 31, 2022	\$3,856,445	\$164,830	\$1,034,085	\$5,055,360
Total: April 1, 2014 through March 31, 2022	\$7,813,954	\$273,851	\$1,964,172	\$10,051,977

(3) CONTRACTOR understands that the CITY may need to adjust sources of revenue and agrees that these needed adjustments will become part of this Agreement by written modification to CONTRACTOR. In event that such reimbursement is terminated or reduced, this Agreement shall be terminated or proportionately reduced accordingly. In no event will CONTRACTOR be entitled to compensation in excess of these amounts for these periods without there first being a

modification of the Agreement or a revision to Appendix B, Budget, as provided for in this section of this Agreement.

C. CONTRACTOR agrees to comply with its Budget as shown in Appendix B in the provision of SERVICES. Changes to the budget that do not increase or reduce the maximum dollar obligation of the CITY are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. CONTRACTOR agrees to comply fully with that policy/procedure.

D. No costs or charges shall be incurred under this Agreement nor shall any payments become due to CONTRACTOR until reports, SERVICES, or both, required under this Agreement are received from CONTRACTOR and approved by the DIRECTOR as being in accordance with this Agreement. CITY may withhold payment to CONTRACTOR in any instance in which CONTRACTOR has failed or refused to satisfy any material obligation provided for under this Agreement.

E. In no event shall the CITY be liable for interest or late charges for any late payments.

APPENDIX B-1a

BUDGET SUMMARY

	2019	2020	2021	2022	Total	Per Year
SFGH FFS	\$463,085	\$473,950	\$493,390	\$512,830	\$1,943,254	\$485,813.57
LHH FFS	\$124,620	\$127,610	\$132,890	\$138,170	\$523,290	\$130,822.50
HAH FFS	\$35,060	\$36,030	\$37,370	\$38,710	\$147,170	\$36,792.50
	\$622,765	\$637,590	\$663,650	\$689,710	\$2,613,714	\$653,428.57

SFGH FFS	\$463,085	\$473,950	\$493,390	\$512,830	\$1,943,254	\$485,813.57
SFGH Contingency	\$100,570	\$101,874	\$104,207	\$106,540	\$413,191	\$103,297.63
SFGH Contingent Fee	\$375,000	\$375,000	\$375,000	\$375,000	\$1,500,000	\$375,000.00
	\$938,655	\$950,824	\$972,596	\$994,370	\$3,856,445	\$964,111.20

HAH FFS	\$35,060	\$36,030	\$37,370	\$38,710	\$147,170	\$36,792.50
HAH Contingency	\$4,207	\$4,324	\$4,484	\$4,645	\$17,660	\$4,415.10
	\$39,267	\$40,354	\$41,854	\$43,355	\$164,830	\$41,207.60

SFGH/HAH FFS	\$498,145	\$509,980	\$530,760	\$551,540	\$2,090,424	\$522,606.07
SFGH/HAH Contingency	\$104,777	\$106,198	\$108,691	\$111,185	\$430,851	\$107,712.73
SFGH/HAH Contingent Fee	\$375,000	\$375,000	\$375,000	\$375,000	\$1,500,000	\$375,000.00
	\$977,922	\$991,177	\$1,014,451	\$1,037,725	\$4,021,275	\$1,005,318.80

LHH FFS	\$124,620	\$127,610	\$132,890	\$138,170	\$523,290	\$130,822.50
LHH Contingency	\$26,954	\$27,313	\$27,947	\$28,580	\$110,795	\$27,698.70
LHH Contingent Fees	\$100,000	\$100,000	\$100,000	\$100,000	\$400,000	\$100,000.00
	\$251,574	\$254,923	\$260,837	\$266,750	\$1,034,085	\$258,521.20

Service	2019	2020	2021	2022	Total	Per Year
SFGH/HAH/LHH FFS	\$622,765	\$637,590	\$663,650	\$689,710	\$2,613,714	\$653,429
SFGH/HAH/LHH CF	\$475,000	\$475,000	\$475,000	\$475,000	\$1,900,000	\$475,000
SFGH/HAH/LHH CF Contingency	\$131,732	\$133,511	\$136,638	\$139,765	\$541,646	\$135,411
SFGH/HAH/LHH Total	\$1,229,497	\$1,246,100	\$1,275,288	\$1,304,475	\$5,055,360	\$1,263,840

	ZSFG	HAH	LHH	Total
April 1, 2018 through March 31, 2019	\$838,085	\$35,060	\$224,620	\$1,097,765
April 1, 2019 through March 31, 2020	\$848,950	\$36,030	\$227,610	\$1,112,590
April 1, 2020 through March 31, 2021	\$868,390	\$37,370	\$232,890	\$1,138,650
April 1, 2011 through March 31, 2022	\$887,830	\$38,710	\$238,170	\$1,164,710
Sub-total	\$3,443,254	\$147,170	\$923,290	\$4,513,714
Contingency	\$413,191	\$17,660	\$110,795	\$541,646
TOTAL: April 1, 2018 through March 31, 2022	\$3,856,445	\$164,830	\$1,034,085	\$5,055,360

APPENDIX B-1a

BUDGET

April 1, 2018 – March 31, 2019

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Mgmt Mtgs	4	4	
2	IRR/CA	8	30	215
3	Interim Rates Rev			100
4	New Reg Analysis	4	10	
5	OSHPD	2	10	100
6	Mcare/MCal CR/DSH/BD		10	202
7	Mcare/MCal CR Analysis	4	2	10
8	Mcare/MCal Audits	4	15	150
9	MAA Reviews			25
10	MCare/MCal Appeals			
11	Mcal AB915 Support			25
12	P14/AB85 Support Prep		50	675
13	COPC FQHC Audits			
14	Gen Consulting	20	20	239
Total Hours		46	151	1,741
Hourly Billing Rate		\$400	\$300	\$215
Total Fees		\$18,400	\$45,300	\$374,385
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$438,085	\$25,000	\$463,085

Note: Staff Rates Composite Average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-1b

BUDGET

April 1, 2019 – March 31, 2020

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Mgmt Mtgs	4	4	
2	IRR/CA	8	30	215
3	Interim Rates Rev			100
4	New Reg Analysis	4	10	
5	OSHPD	2	10	100
6	Mcare/MCal CR/DSH/BD		10	202
7	Mcare/MCal CR Analysis	4	2	10
8	Mcare/MCal Audits	4	15	150
9	MAA Reviews			25
10	MCare/MCal Appeals			
11	Mcal AB915 Support			25
12	P14/AB85 Support Prep		50	675
13	COPC FQHC Audits			
14	Gen Consulting	20	20	239
Total Hours		46	151	1,741
Hourly Billing Rate		\$415	\$310	\$220
Total Fees		\$19,090	\$46,810	\$383,050
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$448,950	\$25,000	\$473,950

Note: Staff Rates Composite Average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-1c

BUDGET

April 1, 2020 – March 31, 2021

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Mgmt Mtgs	4	4	
2	IRR/CA	8	30	215
3	Interim Rates Rev			100
4	New Reg Analysis	4	10	
5	OSHPD	2	10	100
6	Mcare/MCal CR/DSH/BD		10	202
7	Mcare/MCal CR Analysis	4	2	10
8	Mcare/MCal Audits	4	15	150
9	MAA Reviews			25
10	MCare/MCal Appeals			
11	Mcal AB915 Support			25
12	P14/AB85 Support Prep		50	675
13	COPC FQHC Audits			
14	Gen Consulting	20	20	239
Total Hours		46	151	1,741
Hourly Billing Rate		\$425	\$320	\$230
Total Fees		\$19,550	\$48,320	\$400,520
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$468,390	\$25,000	\$493,390

Note: Staff Rates Composite Average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-1d

BUDGET

April 1, 2021 – March 31, 2022

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Mgmt Mtgs	4	4	
2	IRR/CA	8	30	215
3	Interim Rates Rev			100
4	New Reg Analysis	4	10	
5	OSHPD	2	10	100
6	Mcare/MCal CR/DSH/BD		10	202
7	Mcare/MCal CR Analysis	4	2	10
8	Mcare/MCal Audits	4	15	150
9	MAA Reviews			25
10	MCare/MCal Appeals			
11	Mcal AB915 Support			25
12	P14/AB85 Support Prep		50	675
13	COPC FQHC Audits			
14	Gen Consulting	20	20	239
Total Hours		46	151	1,742
Hourly Billing Rate		\$435	\$330	\$240
Total Fees		\$20,010	\$49,830	\$417,990
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$487,830	\$25,000	\$512,830

Note: Staff Rates Composite Average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-2

BUDGET

April 1, 2018 – March 31, 2022

San Francisco General Hospital / Community Outpatient Primary Care Clinics

CONTRACTOR will advise SFGH/COPC of appeal issue(s) that it believes should be pursued. If SFGH/COPC agrees to pursue the issue(s), it will sign and execute an agreement with the CONTRACTOR for each of the appeals which it wishes to participate on a contingency fee basis. If SFGH/COPC agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Task 10. This will include all appeals that are formed prior and during the length of this agreement for which SFGH/COPC wishes to participate.

Compensation for Disproportionate Share Reimbursement services will be based on percentages of contingency fee rates based upon collections obtained. No fees or expenses are due to CONTRACTOR unless reimbursement is realized.

Bidders shall propose percentages of contingency fee rates based upon amounts collected. These percentage rates shall serve as the only reimbursement the vendor shall receive for Disproportionate Share reimbursement services included in this RFP. No fees "up-front" or any costs associated with the contract will be paid. **Responses to this RFP may be used to select a provider for the next eight (8) years. Bidders must bid percentage fee rates separately for each contract year up to four(4) years. Please submit fees in the format requested below. This is the only format that will be accepted.**

Contract Term	Amount of Additional Reimbursement DPH Realized as a Result of Contractor's Efforts	Contractor's Fee (% of Additional Reimbursement)	Comments
04/1/18 - 03/31/19	\$1 to \$2,500,000	15%	New Appeals
04/1/19 - 03/31/20	\$1 to \$2,500,000	15%	New Appeals
04/1/20 - 03/31/21	\$1 to \$2,500,000	15%	New Appeals
04/1/21 - 03/31/22	\$1 to \$2,500,000	15%	New Appeals

Note:

1. All new appeals filed on or after 4/1/18 will be subject to a 15% contingent fee with a maximum fee of \$600,000 per contract year

APPENDIX B-3a

BUDGET

April 1, 2018 – March 31, 2019

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Status Meetings	4		
2	Law/Reg Analysis			
3	Mcare/MCal CR Prep		4	96
4	OSHPD Prep/Sup		10	70
5	CR Settlement Analysis			
6	CR Audit Support		3	3
7	Interim Rate Analysis			
8	Mcare/MCal Appeals			
9	CR Audit Support			19
10	DP SNF Supplemental		3	55
11	AB915 Review			25
12	IRR/CA		10	90
13	General Consulting	6	20	110
Total Hours		10	50	468
Hourly Billing Rate		\$400	\$300	\$215
Total Fees		\$4,000	\$15,000	\$100,620
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$119,620	\$5,000	\$124,620

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-3b

BUDGET

April 1, 2019 – March 31, 2020

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Status Meetings	4		
2	Law/Reg Analysis			
3	Mcare/MCal CR Prep		4	96
4	OSHPD Prep/Sup		10	70
5	CR Settlement Analysis			
6	CR Audit Support		3	3
7	Interim Rate Analysis			
8	Mcare/MCal Appeals			
9	CR Audit Support			19
10	DP SNF Supplemental		3	55
11	AB915 Review			25
12	IRR/CA		10	90
13	General Consulting	6	20	110
Total Hours		10	50	468
Hourly Billing Rate		\$415	\$310	\$220
Total Fees		\$4,150	\$15,500	\$102,960
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$122,610	\$5,000	\$127,610

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-3c

BUDGET

April 1, 2020 – March 31, 2021

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Status Meetings	4		
2	Law/Reg Analysis			
3	Mcare/MCal CR Prep		4	96
4	OSHDP Prep/Sup		10	70
5	CR Settlement Analysis			
6	CR Audit Support		3	3
7	Interim Rate Analysis			
8	Mcare/MCal Appeals			
9	CR Audit Support			19
10	DP SNF Supplemental		3	55
11	AB915 Review			25
12	IRR/CA		10	90
13	General Consulting	6	20	110
Total Hours		10	50	468
Hourly Billing Rate		\$425	\$320	\$230
Total Fees		\$4,250	\$16,000	\$107,640
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$127,890	\$5,000	\$132,890

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-3d

BUDGET

April 1, 2021 – March 31, 2022

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Status Meetings	4		
2	Law/Reg Analysis			
3	Mcare/MCal CR Prep		4	96
4	OSHPD Prep/Sup		10	70
5	CR Settlement Analysis			
6	CR Audit Support		3	3
7	Interim Rate Analysis			
8	Mcare/MCal Appeals			
9	CR Audit Support			19
10	DP SNF Supplemental		3	55
11	AB915 Review			25
12	IRR/CA		10	90
13	General Consulting	6	20	110
Total Hours		10	50	468
Hourly Billing Rate		\$435	\$330	\$240
Total Fees		\$4,350	\$16,500	\$112,320
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$133,170	\$5,000	\$138,170

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-4

BUDGET

April 1, 2018 – March 31, 2022

Laguna Honda Hospital

CONTRACTOR will advise SFGH/COPC of appeal issue(s) that it believes should be pursued. If SFGH/COPC agrees to pursue the issue(s), it will sign and execute an agreement with the CONTRACTOR for each of the appeals which it wishes to participate on a contingency fee basis. If SFGH/COPC agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Task 10. This will include all appeals that are formed prior and during the length of this agreement for which SFGH/COPC wishes to participate.

Compensation for Disproportionate Share Reimbursement services will be based on percentages of contingency fee rates based upon collections obtained. No fees or expenses are due to CONTRACTOR unless reimbursement is realized.

Bidders shall propose percentages of contingency fee rates based upon amounts collected. These percentage rates shall serve as the only reimbursement the vendor shall receive for Disproportionate Share reimbursement services included in this RFP. No fees "up-front" or any costs associated with the contract will be paid. **Responses to this RFP may be used to select a provider for the next eight (8) years. Bidders must bid percentage fee rates separately for each contract year up to four(4) years. Please submit fees in the format requested below. This is the only format that will be accepted.**

Contract Term	Amount of Additional Reimbursement DPH Realized as a Result of Contractor's Efforts	Contractor's Fee (% of Additional Reimbursement)	Comments
04/1/18 - 03/31/19	\$1 to \$666,667	15%	New Appeals
04/1/19 - 03/31/20	\$1 to \$666,667	15%	New Appeals
04/1/20 - 03/31/21	\$1 to \$666,667	15%	New Appeals
04/1/21 - 03/31/22	\$1 to \$666,667	15%	New Appeals

Note:

1. All new appeals filed on or after 4/1/18 will be subject to a 15% contingent fee with a maximum fee of \$100,000 per contract year

APPENDIX B-5a

BUDGET

April 1, 2018 – March 31, 2019

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Law/Reg Analysis	1	16	8
2	Mcare CR Prep	1	4	40
3	MAC Response	1	4	8
4	Process Improvement	2	4	8
5	General Consulting	5	12	20
Total Hours		10	40	84
Hourly Billing Rate		\$400	\$300	\$215
Total Fees		\$4,000	\$12,000	\$18,060
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$34,060	\$1,000	\$35,060

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-5b

BUDGET

April 1, 2019 – March 31, 2020

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Law/Reg Analysis	1	16	8
2	Mcare CR Prep	1	4	40
3	MAC Response	1	4	8
4	Process Improvement	2	4	8
5	General Consulting	5	12	20
Total Hours		10	40	84
Hourly Billing Rate		\$415	\$310	\$220
Total Fees		\$4,150	\$12,400	\$18,480
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$35,030	\$1,000	\$36,030

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-5c

BUDGET

April 1, 2020 – March 31, 2021

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Law/Reg Analysis	1	16	8
2	Mcare CR Prep	1	4	40
3	MAC Response	1	4	8
4	Process Improvement	2	4	8
5	General Consulting	5	12	20
Total Hours		10	40	84
Hourly Billing Rate		\$425	\$320	\$230
Total Fees		\$4,250	\$12,800	\$19,320
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$36,370	\$1,000	\$37,370

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX B-5d

BUDGET

April 1, 2021 – March 31, 2022

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Carrie Yee

Task	Description	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	Law/Reg Analysis	1	16	8
2	Mcare CR Prep	1	4	40
3	MAC Response	1	4	8
4	Process Improvement	2	4	8
5	General Consulting	5	12	20
Total Hours		10	40	84
Hourly Billing Rate		\$435	\$330	\$240
Total Fees		\$4,350	\$13,200	\$20,160
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$37,710	\$1,000	\$38,710

Note: Staff Rates reflect a composite average of staff levels expected to provide service. Actual Rates by staff level position will be billed on invoices.

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

This Business Associate Agreement (“BAA”) supplements and is made a part of the contract by and between the City and County of San Francisco, the Covered Entity (“CE”), and Contractor, the Business Associate (“BA”) (the “Agreement”). To the extent that the terms of the Agreement are inconsistent with the terms of this BAA, the terms of this BAA shall control.²

RECITALS

A. CE, by and through the San Francisco Department of Public Health (“SFDPH”), wishes to disclose certain information to BA pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

B. For purposes of the Agreement, CE requires Contractor, even if Contractor is also a covered entity under HIPAA, to comply with the terms and conditions of this BAA as a BA of CE.

C. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated there under by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws, including, but not limited to, California Civil Code §§ 56, et seq., California Health and Safety Code § 1280.15, California Civil Code §§ 1798, et seq., California Welfare & Institutions Code §§5328, et seq., and the regulations promulgated there under (the “California Regulations”).

D. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(a) and (e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this BAA.

E. BA enters into agreements with CE that require the CE to disclose certain identifiable health information to BA. The parties desire to enter into this BAA to permit BA to have access to such information and comply with the BA requirements of HIPAA, the HITECH Act, and the corresponding Regulations.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

1. Definitions.

a. **Breach** means the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information, and shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402], as well as California Civil Code Sections 1798.29 and 1798.82.

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.
April 1, 2018

- b. Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- c. Business Associate** is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information received from a covered entity, but other than in the capacity of a member of the workforce of such covered entity or arrangement, and shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- d. Covered Entity** means a health plan, a health care clearinghouse, or a health care provider who transmits any information in electronic form in connection with a transaction covered under HIPAA Regulations, and shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- e. Data Aggregation** means the combining of Protected Information by the BA with the Protected Information received by the BA in its capacity as a BA of another CE, to permit data analyses that relate to the health care operations of the respective covered entities, 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.
- f. Designated Record Set** means a group of records maintained by or for a CE, 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.
- g. Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 C.F.R. Section 160.103. For the purposes of this BAA, Electronic PHI includes all computerized data, as defined in California Civil Code Sections 1798.29 and 1798.82.
- h. Electronic Health Record** means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- i. Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- j. Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- k. Protected Health Information or PHI** means any information, including electronic PHI, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and

FSP ID #:

1000002746 (SFGH)

1000002907 (LHH)

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Sections 160.103 and 164.501. For the purposes of this BAA, PHI includes all medical information and health insurance information as defined in California Civil Code Sections 56.05 and 1798.82.

l. Protected Information shall mean PHI provided by CE to BA or created, maintained, received or transmitted by BA on CE's behalf.

m. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system, and shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.

n. Security Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

o. Unsecured PHI means PHI that is not secured by a technology standard that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute, and shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. Obligations of Business Associate.

a. Attestations. Except when CE's data privacy officer exempts BA in writing, the BA shall complete the following forms, attached and incorporated by reference as though fully set forth herein, SFDPH Attestations for Privacy (Attachment 1) and Data Security (Attachment 2) within sixty (60) calendar days from the execution of the Agreement. If CE makes substantial changes to any of these forms during the term of the Agreement, the BA will be required to complete CE's updated forms within sixty (60) calendar days from the date that CE provides BA with written notice of such changes. BA shall retain such records for a period of seven years after the Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.

b. User Training. The BA shall provide, and shall ensure that BA subcontractors, provide, training on PHI privacy and security, including HIPAA and HITECH and its regulations, to each employee or agent that will access, use or disclose Protected Information, upon hire and/or prior to accessing, using or disclosing Protected Information for the first time, and at least annually thereafter during the term of the Agreement. BA shall maintain, and shall ensure that BA subcontractors maintain, records indicating the name of each employee or agent and date on which the PHI privacy and security trainings were completed. BA shall retain, and ensure that BA subcontractors retain, such records for a period of seven years after the Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.

c. Permitted Uses. BA may use, access, and/or disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

Agreement and BAA, or as required by law. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE [45 C.F.R. Sections 164.502, 164.504(e)(2), and 164.504(e)(4)(i)].

d. Permitted Disclosures. BA shall disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the Agreement and BAA, or as required by law. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2 (n) of this BAA, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)]. BA may disclose PHI to a BA that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit Protected Information on its behalf, if the BA obtains satisfactory assurances, in accordance with 45 C.F.R. Section 164.504(e)(1), that the subcontractor will appropriately safeguard the information [45 C.F.R. Section 164.502(e)(1)(ii)].

e. Prohibited Uses and Disclosures. BA shall not use or disclose Protected Information other than as permitted or required by the Agreement and BAA, or as required by law. BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the Protected Information solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(1)(vi)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Agreement.

f. Appropriate Safeguards. BA shall take the appropriate security measures to protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of the CE, and shall prevent any use or disclosure of PHI other than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including, but not limited to, 45 C.F.R. Sections 164.306, 164.308, 164.310, 164.312, 164.314

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

164.316, and 164.504(e)(2)(ii)(B). BA shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316, and 42 U.S.C. Section 17931. BA is responsible for any civil penalties assessed due to an audit or investigation of BA, in accordance with 42 U.S.C. Section 17934(c).

g. Business Associate's Subcontractors and Agents. BA shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of BA, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph 2.f. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2) through (e)(5); 45 C.F.R. Section 164.308(b)]. BA shall mitigate the effects of any such violation.

h. Accounting of Disclosures. Within ten (10) calendar days of a request by CE for an accounting of disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents and subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935 (c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents and subcontractors for at least seven (7) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure [45 C.F.R. 164.528(b)(2)]. If an individual or an individual's representative submits a request for an accounting directly to BA or its agents or subcontractors, BA shall forward the request to CE in writing within five (5) calendar days.

i. Access to Protected Information. BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within (5) days of request by CE to enable CE to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains Protected Information in electronic format, BA shall provide such information in electronic format as necessary to enable CE to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. 164.524.

j. Amendment of Protected Information. Within ten (10) days of a request by CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set,

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

BA and its agents and subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment or other documentation to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

k. Governmental Access to Records. BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BA shall provide CE a copy of any Protected Information and other documents and records that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.

l. Minimum Necessary. BA, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the intended purpose of such use, disclosure, or request. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary" to accomplish the intended purpose in accordance with HIPAA and HIPAA Regulations.

m. Data Ownership. BA acknowledges that BA has no ownership rights with respect to the Protected Information.

n. Notification of Breach. BA shall notify CE within 5 calendar days of any breach of Protected Information; any use or disclosure of Protected Information not permitted by the BAA; any Security Incident (except as otherwise provided below) related to Protected Information, and any use or disclosure of data in violation of any applicable federal or state laws by BA or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BA to have been, accessed, acquired, used, or disclosed, as well as any other available information that CE is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited to, 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BA shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 42 U.S.C. Section 17932; 45 C.F.R. 164.410; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]

o. Breach Pattern or Practice by Business Associate's Subcontractors and Agents. Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(iii), if the BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

subcontractor or agent's obligations under the Contract or this BAA, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the contractual arrangement with its subcontractor or agent, if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or this BAA within five (5) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

3. Termination.

a. Material Breach. A breach by BA of any provision of this BAA, as determined by CE, shall constitute a material breach of the Agreement and this BAA and shall provide grounds for immediate termination of the Agreement and this BAA, any provision in the AGREEMENT to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii).]

b. Judicial or Administrative Proceedings. CE may terminate the Agreement and this BAA, effective immediately, if (i) BA is named as defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

c. Effect of Termination. Upon termination of the Agreement and this BAA for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of Section 2 of this BAA to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(2)(ii)(J)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

d. Civil and Criminal Penalties. BA understands and agrees that it is subject to civil or criminal penalties applicable to BA for unauthorized use, access or disclosure of Protected Information in accordance with the HIPAA Regulations and the HITECH Act including, but not limited to, 42 U.S.C. 17934 (c).

e. Disclaimer. CE makes no warranty or representation that compliance by BA with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations or corresponding California law provisions will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

4. Amendment to Comply with Law.

APPENDIX E



San Francisco Department of Public Health

Business Associate Agreement

Toyon Associates, Inc.

April 1, 2018

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable state or federal laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the updated standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable state or federal laws. CE may terminate the Agreement upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Agreement or this BAA when requested by CE pursuant to this section or (ii) BA does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

5. Reimbursement for Fines or Penalties.

In the event that CE pays a fine to a state or federal regulatory agency, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible access, use or disclosure of PHI by BA or its subcontractors or agents, then BA shall reimburse CE in the amount of such fine or penalties or damages within thirty (30) calendar days from City's written notice to BA of such fines, penalties or damages.

Attachment 1 – SFDPH Privacy Attestation, version 06-07-2017

Attachment 2 – SFDPH Data Security Attestation, version 06-07-2017

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Office of Compliance and Privacy Affairs

San Francisco Department of Public Health

101 Grove Street, Room 330, San Francisco, CA 94102

Email: compliance.privacy@sfdph.org

Hotline (Toll-Free): 1-855-729-6040

Contractor Name:	Toyon Associates, Inc.	Contractor City Vendor ID	0000009305
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PRIVACY ATTESTATION

INSTRUCTIONS: Contractors and Partners who receive or have access to health or medical information or electronic health record systems maintained by SFPDH must complete this form. Retain completed Attestations in your files for a period of 7 years. Be prepared to submit completed attestations, along with evidence related to the following items, if requested to do so by SFPDH.

Exceptions: If you believe that a requirement is Not Applicable to you, see instructions below in Section IV on how to request clarification or obtain an exception.

I. All Contractors.

DOES YOUR ORGANIZATION...		Yes	No*
A	Have formal Privacy Policies that comply with the Health Insurance Portability and Accountability Act (HIPAA)?		
B	Have a Privacy Officer or other individual designated as the person in charge of investigating privacy breaches or related incidents?		
	If yes: Name & Title: _____ Phone #: _____ Email: _____		
C	Require health information Privacy Training upon hire and annually thereafter for all employees who have access to health information? [Retain documentation of trainings for a period of 7 years.] [SFPDH privacy training materials are available for use; contact OCPA at 1-855-729-6040.]		
D	Have proof that employees have signed a form upon hire and annually thereafter, with their name and the date, acknowledging that they have received health information privacy training? [Retain documentation of acknowledgement of trainings for a period of 7 years.]		
E	Have (or will have if/when applicable) Business Associate Agreements with subcontractors who create, receive, maintain, transmit, or access SFPDH's health information?		
F	Assure that staff who create, or transfer health information (via laptop, USB/thumb-drive, handheld), have prior supervisorial authorization to do so AND that health information is only transferred or created on encrypted devices approved by SFPDH Information Security staff?		

II. Contractors who serve patients/clients and have access to SFPDH PHI, must also complete this section.

If Applicable: DOES YOUR ORGANIZATION...		Yes	No*
G	Have (or will have if/when applicable) evidence that SFPDH Service Desk (628-206-SERV) was notified to de-provision employees who have access to SFPDH health information record systems within 2 business days for regular terminations and within 24 hours for terminations due to cause?		
H	Have evidence in each patient's / client's chart or electronic file that a Privacy Notice that meets HIPAA regulations was provided in the patient's / client's preferred language? (English, Cantonese, Vietnamese, Tagalog, Spanish, Russian forms may be required and are available from SFPDH.)		
I	Visibly post the Summary of the Notice of Privacy Practices in all six languages in common patient areas of your treatment facility?		
J	Document each disclosure of a patient's/client's health information for purposes <u>other than</u> treatment, payment, or operations?		
K	When required by law, have proof that signed authorization for disclosure forms (that meet the requirements of the HIPAA Privacy Rule) are obtained PRIOR to releasing a patient's/client's health information?		

III. ATTEST: Under penalty of perjury, I hereby attest that to the best of my knowledge the information herein is true and correct and that I have authority to sign on behalf of and bind Contractor listed above.

ATTESTED by Privacy Officer or designated person	Name: (print)	Signature	Date
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IV. *EXCEPTIONS: If you have answered "NO" to any question or believe a question is Not Applicable, please contact OCPA at 1-855-729-6040 or compliance.privacy@sfdph.org for a consultation. All "No" or "N/A" answers must be reviewed and approved by OCPA below.

EXCEPTION(S) APPROVED by OCPA	Name (print)	Signature	Date
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Contractor Name:	Toyon Associates, Inc.	Contractor City Vendor ID	0000009305
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DATA SECURITY ATTESTATION

INSTRUCTIONS: Contractors and Partners who receive or have access to health or medical information or electronic health record systems maintained by SFDPH must complete this form. Retain completed Attestations in your files for a period of 7 years. Be prepared to submit completed attestations, along with evidence related to the following items, if requested to do so by SFDPH.

Exceptions: If you believe that a requirement is Not Applicable to you, see instructions in Section III below on how to request clarification or obtain an exception.

I. All Contractors.

DOES YOUR ORGANIZATION...		Yes	No*	
A	Conduct assessments/audits of your data security safeguards to demonstrate and document compliance with your security policies and the requirements of HIPAA/HITECH at least every two years? [Retain documentation for a period of 7 years]			
B	Use findings from the assessments/audits to identify and mitigate known risks into documented remediation plans?			
	Date of last Data Security Risk Assessment/Audit:			
	Name of firm or person(s) who performed the Assessment/Audit and/or authored the final report:			
C	Have a formal Data Security Awareness Program?			
D	Have formal Data Security Policies and Procedures to detect, contain, and correct security violations that comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)?			
E	Have a Data Security Officer or other individual designated as the person in charge of ensuring the security of confidential information?			
	<table border="1"> <tr> <td>If yes:</td> <td>Name & Title:</td> <td>Phone #</td> <td>Email:</td> </tr> </table>			If yes:
If yes:	Name & Title:	Phone #	Email:	
F	Require Data Security Training upon hire and annually thereafter for all employees who have access to health information? [Retain documentation of trainings for a period of 7 years.] [SFDPH data security training materials are available for use; contact OCPA at 1-855-729-6040.]			
G	Have proof that employees have signed a form upon hire and annually, or regularly, thereafter, with their name and the date, acknowledging that they have received data security training? [Retain documentation of acknowledgement of trainings for a period of 7 years.]			
H	Have (or will have if/when applicable) Business Associate Agreements with subcontractors who create, receive, maintain, transmit, or access SFDPH's health information?			
I	Have (or will have if/when applicable) a diagram of how SFDPH data flows between your organization and subcontractors or vendors (including named users, access methods, on-premise data hosts, processing systems, etc.)?			

II. ATTEST: Under penalty of perjury, I hereby attest that to the best of my knowledge the information herein is true and correct and that I have authority to sign on behalf of and bind Contractor listed above.

ATTESTED by Data Security Officer or designated person	Name: (print)	Signature	Date
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III. *EXCEPTIONS: If you have answered "NO" to any question or believe a question is Not Applicable, please contact OCPA at 1-855-729-6040 or compliance.privacy@sfdph.org for a consultation. All "No" or "N/A" answers must be reviewed and approved by OCPA below.

EXCEPTION(S) APPROVED by OCPA	Name (print)	Signature	Date
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**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
Toyon Associates, Inc.**

This Agreement is made this **1st** day of **April, 2014**, in the City and County of an Francisco, State of California, by and between: **Toyon Associates, Inc., 1800 Sutter Street, Suite 600, Concord, CA 94520**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the Department of Public Health, Community Health Network, ("Department") wishes to provide Regulatory Report and Reimbursement and Revenue Optimization Services; and,

WHEREAS, a Request for Proposal ("RFP") was issued on **September 26, 2013**, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number **4045-04/05 on February 3, 2014**;

Now, THEREFORE, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be from April 1, 2014 to March 30, 2018.

3. **Effective Date of Agreement.** This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. **Services Contractor Agrees to Perform.** The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

5. **Compensation.** Compensation shall be made in monthly payments on or before the 15th day of each month for work, as set forth in Section 4 of this Agreement, that the **Director of the Department of Public Health**, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Four Million Six Hundred Sixty Thousand Six Hundred Seventeen Dollars (\$4,660,617)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Department of Public Health** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

6. **Guaranteed Maximum Costs.** The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. **Payment; Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number and must conform to Appendix F. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. **Submitting False Claims; Monetary Penalties.** Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at [http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1). A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a)

knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Disallowance. If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement. By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material terms of the Agreement.

10. Taxes. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

11. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. **Independent Contractor.** Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. **Payment of Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section:

e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable

to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

16. Indemnification

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Left blank by agreement of the parties. (Liquidated damages)

20. Default; Remedies. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

- | | |
|---|---------------------------------|
| 8. Submitting False Claims; Monetary Penalties. | 37. Drug-free workplace policy, |
| 10. Taxes | 53. Compliance with laws |

- 15. Insurance
- 24. Proprietary or confidential information of City
- 30. Assignment

- 55. Supervision of minors
- 57. Protection of private information
- 58. Graffiti removal

And, item 1 of Appendix D attached to this Agreement

2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

- 2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- 3) Terminating all existing orders and subcontracts.
- 4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- 5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- 6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.
- 7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

- 1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.
- 2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.
- 3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.
- 4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in

instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties upon Termination or Expiration. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

- | | |
|---|---|
| 8. Submitting false claims | 26. Ownership of Results |
| 9. Disallowance | 27. Works for Hire |
| 10. Taxes | 28. Audit and Inspection of Records |
| 11. Payment does not imply acceptance of work | 48. Modification of Agreement. |
| 13. Responsibility for equipment | 49. Administrative Remedy for Agreement Interpretation. |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 50. Agreement Made in California; Venue |
| 15. Insurance | 51. Construction |
| 16. Indemnification | 52. Entire Agreement |
| 17. Incidental and Consequential Damages | 56. Severability |
| 18. Liability of City | 57. Protection of private information |
| 24. Proprietary or confidential information of City | And, item 1 of Appendix D attached to this Agreement. |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City

a. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

b. Contractor shall maintain the usual and customary records for persons receiving Services under this Agreement. Contractor agrees that all private or confidential information concerning persons receiving Services under this Agreement, whether disclosed by the City or by the individuals themselves, shall be held in the strictest confidence, shall be used only in performance of this Agreement, and shall be

disclosed to third parties only as authorized by law. Contractor understands and agrees that this duty of care shall extend to confidential information contained or conveyed in any form, including but not limited to documents, files, patient or client records, facsimiles, recordings, telephone calls, telephone answering machines, voice mail or other telephone voice recording systems, computer files, e-mail or other computer network communications, and computer backup files, including disks and hard copies. The City reserves the right to terminate this Agreement for default if Contractor violates the terms of this section.

c. Contractor shall maintain its books and records in accordance with the generally accepted standards for such books and records for five years after the end of the fiscal year in which Services are furnished under this Agreement. Such access shall include making the books, documents and records available for inspection, examination or copying by the City, the California Department of Health Services or the U.S. Department of Health and Human Services and the Attorney General of the United States at all reasonable times at the Contractor's place of business or at such other mutually agreeable location in California. This provision shall also apply to any subcontract under this Agreement and to any contract between a subcontractor and related organizations of the subcontractor, and to their books, documents and records. The City acknowledges its duties and responsibilities regarding such records under such statutes and regulations.

d. The City owns all records of persons receiving Services and all fiscal records funded by this Agreement if Contractor goes out of business. Contractor shall immediately transfer possession of all these records if Contractor goes out of business. If this Agreement is terminated by either party, or expires, records shall be submitted to the City upon request.

e. All of the reports, information, and other materials prepared or assembled by Contractor under this Agreement shall be submitted to the Department of Public Health Contract Administrator and shall not be divulged by Contractor to any other person or entity without the prior written permission of the Contract Administrator listed in Appendix A.

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

To CITY:	Office of Contract Management and Compliance Department of Public Health 1380 Howard Street RM419c San Francisco, California 94103	FAX: (415) 255-3088 e-mail: junko.craft@sfdph.org
And:	Matthew Sur FISCAL OFFICE 2789 25 th Street, 3 rd Floor, Accounting San Francisco, CA 94110	FAX: (415) 206-4488 e-mail: Matthew.Sur@sfdph.org
To CONTRACTOR:	TOYON ASSOCIATES, INC. 1800 SUTTER STREET, SUITE 600 CONCORD, CA 94520	FAX: (925) 687-9013 e-mail: Ron.knapp@toyonassociates.cc

Any notice of default must be sent by registered mail.

26. Ownership of Results. Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire. If, in connection with services performed under this Agreement, Contractor or its subcontractors create 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 Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor 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, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records

a. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

b. Contractor shall annually have its books of accounts audited by a Certified Public Accountant and a copy of said audit report and the associated management letter(s) shall be transmitted to the Director of Public Health or his /her designee within one hundred eighty (180) calendar days following Contractor's fiscal year end date. If Contractor expends \$500,000 or more in Federal funding per year, from any and all Federal awards, said audit shall be conducted in accordance with OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Said requirements can be found at the following website address: <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. If Contractor expends less than \$500,000 a year in Federal awards, Contractor is exempt from the single audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal Agency, pass-through entity and General Accounting Office. Contractor agrees to reimburse the City any cost adjustments necessitated by this audit report. Any audit report which addresses all or part of the period covered by this Agreement shall treat the service components identified in the detailed descriptions attached to Appendix A and referred to in the Program Budgets of Appendix B as discrete program entities of the Contractor.

c. The Director of Public Health or his / her designee may approve of a waiver of the aforementioned audit requirement if the contractual Services are of a consulting or personal services nature, these Services are paid for through fee for service terms which limit the City's risk with such contracts, and it is determined that the work associated with the audit would produce undue burdens or costs and would provide minimal benefits. A written request for a waiver must be submitted to the DIRECTOR ninety (90) calendar days before the end of the Agreement term or Contractor's fiscal year, whichever comes first.

d. Any financial adjustments necessitated by this audit report shall be made by Contractor to the City. If Contractor is under contract to the City, the adjustment may be made in the next subsequent billing by Contractor to the City, or may be made by another written schedule determined solely by the City. In the event Contractor is not under contract to the City, written arrangements shall be made for audit adjustments.

29. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless

first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

32. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Local Business Enterprise Utilization; Liquidated Damages

a. The LBE Ordinance. Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

a. Compliance and Enforcement

1) **Enforcement.** If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to

Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

34. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly 'Human Rights Commission').

e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the P500 (1-13) Toyon (CMS# 7435)

MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records. If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or

loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but

are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees. Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission..

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on

Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

45. First Source Hiring Program

a. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. **First Source Hiring Agreement.** As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or

property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

6) Set the term of the requirements.

7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. **Hiring Decisions.** Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. **Exceptions.** Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. **Liquidated Damages.** Contractor agrees:

1) To be liable to the City for liquidated damages as provided in this section;

2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

(a) The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

(b) In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

Therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. **Subcontracts.** Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).**49.**

Administrative Remedy for Agreement Interpretation – DELETED BY MUTUAL AGREEMENT OF THE PARTIES 50. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

- 51. Construction.** All paragraph captions are for reference only and shall not be considered in construing this Agreement.
- 52. Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."
- 53. Compliance with Laws.** Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.
- 54. Services Provided by Attorneys.** Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.
- 55. Supervision of Minors Left blank by agreement of the parties (Supervision of Minors).**
- 56. Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.
- 57. Protection of Private Information.** Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.
- 58. Not Used.**
- 59. Food Service Waste Reduction Requirements.** Effective June 1, 2007 Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.
- 60. Slavery Era Disclosure. Left blank by agreement of the parties. (Slavery era disclosure)**
- 61. Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal

counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

62. Dispute Resolution Procedure. Left blank by agreement of parties (Dispute Resolution Procedure).

63. Additional Terms. Additional Terms are attached hereto as Appendix D and are incorporated into this Agreement by reference as though fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

Toyon Associates, Inc.

Barbara A. Garcia, MPA / Date
Director of Health

Approved as to Form:

Dennis J. Herrera
City Attorney

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By: _____ / Date
Kathy Murphy
Deputy City Attorney

Approved:

Thomas P. Knight / Date
President
1800 Sutter Street, Suite 600
Concord, CA 94520-2546

City vendor number: 42284

Jaci Fong / Date
Director of the Office of
Contract Administration and
Purchaser

Appendices

- A: Services to be provided by Contractor J:
- B: Calculation of Charges
- C: Insurance Waiver (If not used insert Reserved)
- D: Additional Terms
- E: Business Associate Agreement
- F: Invoice
- G: Private Policy Compliance
- H: Declaration of Compliance

Appendix A
Community Health Network
Services to be provided by Contractor

1. Terms

A. Contract Administrator:

In performing the Services hereunder, Contractor shall report to Valerie Inouye and Matthew Sur Contract Administrator for the City, or his / her designee.

B. Reports:

Contractor shall submit written reports as requested by the City. The format for the content of such reports shall be determined by the City. The timely submission of all reports is a necessary and material term and condition of this Agreement. All reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

C. Evaluation:

Contractor shall participate as requested with the City, State and/or Federal government in evaluative studies designed to show the effectiveness of Contractor's Services. Contractor agrees to meet the requirements of and participate in the evaluation program and management information systems of the City. The City agrees that any final written reports generated through the evaluation program shall be made available to Contractor within thirty (30) working days. Contractor may submit a written response within thirty working days of receipt of any evaluation report and such response will become part of the official report.

D. Possession of Licenses/Permits:

Contractor warrants the possession of all licenses and/or permits required by the laws and regulations of the United States, the State of California, and the City to provide the Services. Failure to maintain these licenses and permits shall constitute a material breach of this Agreement.

E. Adequate Resources:

Contractor agrees that it has secured or shall secure at its own expense all persons, employees and equipment required to perform the Services required under this Agreement, and that all such Services shall be performed by Contractor, or under Contractor's supervision, by persons authorized by law to perform such Services.

2. Description of Services

Detailed description of services are listed below and are attached hereto

Appendix A-1 Scope of Work (SFGH/COPC)

Appendix A-2 Scope of Work (LHH)

Appendix A-3 Scope of Work (HAH)

Appendix B
Calculation of Charges
For SFGH/COPC, HAH, & LHH

1. Method of Payment

A. Appendix B-1a – B-5d

Professional Fees

CONTRACTOR shall submit monthly invoices by the fifteenth (15th) working day of each month, in the format attached in Appendix F, based upon the number of units of service that were delivered in the immediately preceding month. All deliverables associated with the Services listed in Section 2 of appendix A, times the unit rate as shown in the Program Budgets listed in Section 2 of Appendix B shall be reported on the invoice(s) each month.

Expenses

Contractor shall submit monthly invoices in the format attached in Appendix F, by the fifteen (15th) working day of each month for reimbursement of the actual costs for Services of the immediately preceding month. All costs associated with the Services shall be reported on the invoice each month. All costs incurred under this Agreement shall be due and payable only after Services have been rendered and in no case in advance of such services.

B. Appendix B-2 and B-4

Contractor shall submit an invoice within thirty (30) days of notification that SFGH/COPC and/or LHH have received additional reimbursement for services identified in Appendix B-2 and Appendix B-4. The invoice amounts will be calculated as 10-15% of the additional reimbursement received by SFGH/COPC and/or LHH. No professional fees or expenses will be billed to SFGH/COPC and/or LHH for these services unless recoveries are made.

2. Program Budgets and Final Invoice

A. Program Budgets are listed below and are attached hereto.

Budget Summary

Appendix B-1a SFGH/COPC April 1, 2014 – March 31, 2015

Appendix B-1b SFGH/COPC April 1, 2015 – March 31, 2016

Appendix B-1c SFGH/COPC April 1, 2016 – March 31, 2017

Appendix B-1d SFGH/COPC April 1, 2017 – March 31, 2018

Appendix B-2 Budget for Compensation for Appeal Services paid only if SFGH receives additional reimbursement, known as Contingent Fee Services

Appendix B-3a LHH April 1, 2014 – March 31, 2015

Appendix B-3b LHH April 1, 2015 – March 31, 2016

Appendix B-3c LHH April 1, 2016 – March 31, 2017

Appendix B-3d LHH April 1, 2017 – March 31, 2018

Appendix B-4 Budget for Compensation for Appeal Services paid only if LHH receives additional reimbursement, known as Contingent Fee Services

Appendix B-5a HAH April 1, 2014 – March 31, 2015

Appendix B-5b HAH April 1, 2014 – March 31, 2015

Appendix B-5c HAH April 1, 2014 – March 31, 2015

Appendix B-5d HAH April 1, 2014 – March 31, 2015

B. COMPENSATION

Compensation shall be made in monthly payments on or before the 30th day after the Contract Administrator, in his or her sole discretion, has approved the invoice submitted by CONTRACTOR. The breakdown of costs and sources of revenue associated with this Agreement appears in Appendix B-1a through B-5d, Cost Reporting/Data Collection (CR_DC) and Program Budget, attached hereto and incorporated by reference as though fully set forth herein. The maximum dollar obligation of the CITY under the terms of this Agreement shall not exceed Four Million Six Hundred Sixty Thousand Six Hundred Seventeen Dollars (\$4,660,617).

The Contractor understands that, of this maximum dollar obligation, \$2,800,000 is solely for the purpose of additional reimbursement for services identified in Appendix B-2 and Appendix B-4.

Contractor understands that, of this maximum dollar obligation, \$199,352 is included as a contingency amount and is not to be used on Appendix B, Budget, or be available to Contractor without a modification to this Agreement executed in the same manner as this Agreement or a revision to Appendix B, Budget, which has been approved by the Contract Administrator. Contractor further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable CITY and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by the Controller. Contractor agrees to fully comply with these laws, regulations, and policies/procedures.

(1) For each fiscal year of the term of this Agreement, CONTRACTOR shall submit for approval of the CITY's Department of Public Health a revised Appendix A, Description of Services, and a revised Appendix B, Program Budget and Cost Reporting Data Collection form, based on the CITY's allocation of funding for SERVICES for the appropriate fiscal year. CONTRACTOR shall create these Appendices in compliance with the instruction of the Department of Public Health. These Appendices shall apply only to the fiscal year for which they were created. These Appendices shall become part of this Agreement only upon approval by the CITY.

(2) CONTRACTOR understands that, of the maximum dollar obligation stated above, the total amount to be used in Appendix B, Budget and available to CONTRACTOR for the entire term of the contract is as follows, notwithstanding that for each fiscal year, the amount to be used in Appendix B, Budget and available to CONTRACTOR for that fiscal year shall conform with the Appendix A, Description of Services, and Appendix B, program Budget and Cost Reporting Data Collection form, as approved by the CITY's Department of public Health based on the CITY's allocation of funding for SERVICES for that fiscal year.

	SFGH	HAH	LHH	TOTAL
April 1, 2014 through March 30, 2015	\$901,896	\$25,962	\$214,688	\$1,142,546
April 1, 2015 through March 30, 2016	\$911,265	\$26,712	\$218,132	\$1,156,109
April 1, 2016 through March 30, 2017	\$922,538	\$27,686	\$222,466	\$1,172,690
April 1, 2017 through March 30, 2018	\$933,810	\$28,661	\$226,801	\$1,189,272
April 1, 2014 through March 30, 2018	\$3,669,509	\$109,021	\$882,087	\$4,660,617

(3) CONTRACTOR understands that the CITY may need to adjust sources of revenue and agrees that these needed adjustments will become part of this Agreement by written modification to CONTRACTOR. In event that such reimbursement is terminated or reduced, this Agreement shall be terminated or proportionately reduced accordingly. In no event will CONTRACTOR be entitled to compensation in excess of these amounts for these periods without there first being a modification of the Agreement or a revision to Appendix B, Budget, as provided for in this section of this Agreement.

C. CONTRACTOR agrees to comply with its Budget as shown in Appendix B in the provision of SERVICES. Changes to the budget that do not increase or reduce the maximum dollar obligation of the CITY are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. CONTRACTOR agrees to comply fully with that policy/procedure.

D. No costs or charges shall be incurred under this Agreement nor shall any payments become due to CONTRACTOR until reports, SERVICES, or both, required under this Agreement are received from CONTRACTOR and approved by the DIRECTOR as being in accordance with this Agreement. CITY may withhold payment to CONTRACTOR in any instance in which CONTRACTOR has failed or refused to satisfy any material obligation provided for under this Agreement.

E. In no event shall the CITY be liable for interest or late charges for any late payments.

**Appendix C
Insurance Waiver**

RESERVED

THIS PAGE IS LEFT BLANK AND IS NOT BEING USED

[Use as appropriate and only if an insurance waiver has been signed and granted by the Risk Manager.]

**Appendix D
Additional Terms**

1. HIPAA

The parties acknowledge that CITY is a Covered Entity as defined in the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA") and is therefore required to abide by the Privacy Rule contained therein. The parties further agree that CONTRACTOR falls within the following definition under the HIPAA regulations:

- A Covered Entity subject to HIPAA and the Privacy Rule contained therein; or
- A Business Associate subject to the terms set forth in Appendix E;
- Not Applicable, CONTRACTOR will not have access to Protected Health Information.

2. THIRD PARTY BENEFICIARIES

No third parties are intended by the parties hereto to be third party beneficiaries under this Agreement, and no action to enforce the terms of this Agreement may be brought against either party by any person who is not a party hereto.

Appendix E

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) supplements and is made a part of the contract (“Contract”) by and between the City and County of San Francisco, Covered Entity (“CE”) and Contractor, Business Associate (“BA”).

RECITALS

- A. CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(a) and (e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402].
- b. **Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- c. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- d. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- e. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

- g. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
 - h. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.
 - i. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
 - j. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
 - k. **Protected Health Information or PHI** 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 individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, 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].
 - l. **Protected Information** shall mean PHI provided by CE to BA or created, maintained, received or transmitted by BA on CE's behalf.
 - m. **Security Incident** shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
 - n. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
 - o. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.
2. **Obligations of Business Associate**
- a. **Permitted Uses.** BA shall use Protected Information only for the purpose of performing BA's obligations under the Contract and as permitted or required under the Contract and Addendum, or as required by law. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2) and 164.504(e)(4)(i)].
 - b. **Permitted Disclosures.** BA shall disclose Protected Information only for the purpose of performing BA's obligations under the Contract and as permitted or required under the Contract and Addendum, or as required by law. BA shall not disclose Protected

Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches, suspected breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2. m. of the Addendum, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)].

- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose PHI other than as permitted or required by the Contract and Addendum, or as required by law. BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(vi)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards to prevent the use or disclosure of Protected Information other than as permitted by the Contract or Addendum, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including, but not limited to, 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931]
- e. **Business Associate's Subcontractors and Agents.** BA shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of BA, agree in writing to the same restrictions and conditions that apply to BA with respect to such Protected Information and implement the safeguards required by paragraph 2.d. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

- f. **Accounting of Disclosures.** Within ten (10) calendar days of a request by CE for an accounting of disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents and subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935 (c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents and subcontractors for at least six(6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If a patient submits a request for an accounting directly to BA or its agents or subcontractors, BA shall forward the request to CE in writing within five(5) calendar days.
- g. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BA shall provide CE a copy of any Protected Information and other documents and records that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- h. **Minimum Necessary.** BA, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- i. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- j. **Notification of Possible Breach.** BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of Protected Information; any use or disclosure of Protected Information not permitted by the Contract or Addendum; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system) related to Protected Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by BA or its agents or subcontractors. The notification shall include, to the extent possible, the identification of

each individual who unsecured Protected Information has been, or is reasonably believed by the business associate to have been, accessed, acquired, used, or disclosed, as well as any other available information that CE is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited, to 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BA shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. (This provision should be negotiated.) [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]

- k. **Breach Pattern or Practice by Business Associate's Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(ii), if the BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or Addendum or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or Addendum or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

3. Termination

- a. **Material Breach.** A breach by BA of any provision of this Addendum, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of Section 2 of this Addendum to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(ii)(2)(J)]. If CE elects destruction of the PHI, BA shall certify in

writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

d. Disclaimer

CE makes no warranty or representation that compliance by BA with this Addendum, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

4. Amendment to Comply with Law.

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable state or federal laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Addendum when requested by CE pursuant to this section or (ii) BA does not enter into an amendment to the Contract or Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

5. Reimbursement for Fines

In the event that CE pays a fine to a state or federal regulatory agency based on an impermissible use or disclosure of PHI by BA or its subcontractors or agents, then BA shall reimburse CE in the amount of such fine within thirty (30) calendar days.

Appendix F
Invoice

Appendix G

San Francisco Department of Public Health Privacy Policy Compliance Standards

As part of this Agreement, Contractor acknowledges and agrees to comply with the following:

In City's Fiscal Year 2003/04, a DPH Privacy Policy was developed and contractors advised that they would need to comply with this policy as of July 1, 2005.

As of July 1, 2004, contractors were subject to audits to determine their compliance with the DPH Privacy Policy using the six compliance standards listed below. Audit findings and corrective actions identified in City's Fiscal year 2004/05 were to be considered informational, to establish a baseline for the following year.

Beginning in City's Fiscal Year 2005/06, findings of compliance or non-compliance and corrective actions were to be integrated into the contractor's monitoring report.

Item #1: DPH Privacy Policy is integrated in the program's governing policies and procedures regarding patient privacy and confidentiality.

As Measured by: Existence of adopted/approved policy and procedure that abides by the rules outlined in the DPH Privacy Policy

Item #2: All staff who handle patient health information are oriented (new hires) and trained in the program's privacy/confidentiality policies and procedures.

As Measured by: Documentation showing individual was trained exists

Item #3: A Privacy Notice that meets the requirements of the Federal Privacy Rule (HIPAA) is written and provided to all patients/clients served in their threshold and other languages. If document is not available in the patient's/client's relevant language, verbal translation is provided.

As Measured by: Evidence in patient's/client's chart or electronic file that patient was "noticed." (Examples in English, Cantonese, Vietnamese, Tagalog, Spanish, Russian will be provided.)

Item #4: A Summary of the above Privacy Notice is posted and visible in registration and common areas of treatment facility.

As Measured by: Presence and visibility of posting in said areas. (Examples in English, Cantonese, Vietnamese, Tagalog, Spanish, Russian will be provided.)

Item #5: Each disclosure of a patient's/client's health information for purposes other than treatment, payment, or operations is documented.

As Measured by: Documentation exists.

Item #6: Authorization for disclosure of a patient's/client's health information is obtained prior to release (1) to non-treatment providers or (2) from a substance abuse program.

As Measured by: An authorization form that meets the requirements of the Federal Privacy Rule (HIPAA) is available to program staff and, when randomly asked, staff are aware of circumstances when authorization form is needed.

Appendix H

THE DECLARATION OF COMPLIANCE

Each Fiscal Year, CONTRACTOR attests with a Declaration of Compliance that each program site has an Administrative Binder that contains all of the forms, policies, statements, and documentation required by Community Behavioral Health Services (CBHS). The Declaration of Compliance also lists requirements for site postings of public and client information, and client chart compliance if client charts are maintained. CONTRACTOR understands that the Community Programs Business Office of Contract Compliance may visit a program site at any time to ensure compliance with all items of the Declaration of Compliance.

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

First Amendment

THIS AMENDMENT (this "Amendment") is made as of **May 8, 2014**, in San Francisco, California, by and between **Toyon Associates, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and increase the contract amount;

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number **4045-04/05** on **February 3, 2014**;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

a. Agreement. The term "Agreement" shall mean the Agreement dated April 1, 2014 between Contractor and City, as amended by the:

First amendment dated this amendment

b. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2. Of the Agreement currently reads as follows:

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from April 1, 2014 to September 30, 2014.

Such section is hereby amended in its entirety to read as follows:

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from April 1, 2014 to March 31, 2018.

2b. Section 5. of the Agreement currently reads as follows:

5. Compensation. Compensation shall be made in monthly payments on or before the 15th day of each month for work, as set forth in Section 4 of this Agreement, that the **Director of the Department of**

Public Health, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed Six Hundred Fourteen Thousand Eight Hundred Thirteen Dollars (\$614,813). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Department of Public Health** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

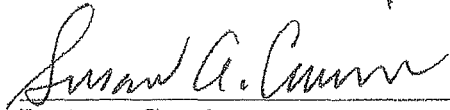
5. Compensation. Compensation shall be made in monthly payments on or before the 15th day of each month for work, as set forth in Section 4 of this Agreement, that the **Director of the Department of Public Health**, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed Four Million Nine Hundred Ninety Six Thousand Six Hundred Seventeen Dollars (\$4,996,617). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Department of Public Health** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

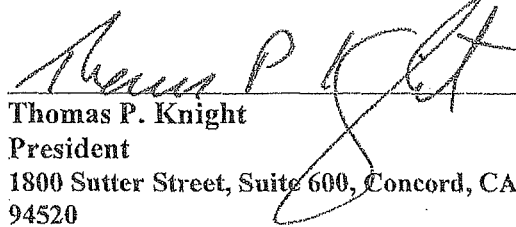
Recommended by:



Barbara Garcia
Director of Health
Department of Public Health

CONTRACTOR

Toyon Associates, Inc.



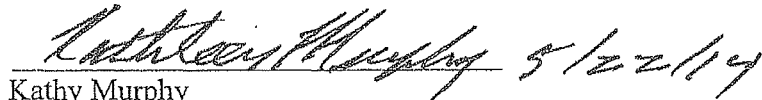
Thomas P. Knight
President
1800 Sutter Street, Suite 600, Concord, CA
94520

City vendor number: 42284

Approved as to Form:

Dennis J. Herrera
City Attorney

By:



Kathy Murphy
Deputy City Attorney

Approved:

Jaci Fong
Director of the Office of Contract
Administration, and Purchaser

**Appendix A
Community Health Network
Services to be provided by Contractor**

1. Terms

A. Contract Administrator:

In performing the Services hereunder, Contractor shall report to Valerie Inouye and Matthew Sur Contract Administrator for the City, or his / her designee.

B. Reports:

Contractor shall submit written reports as requested by the City. The format for the content of such reports shall be determined by the City. The timely submission of all reports is a necessary and material term and condition of this Agreement. All reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

C. Evaluation:

Contractor shall participate as requested with the City, State and/or Federal government in evaluative studies designed to show the effectiveness of Contractor's Services. Contractor agrees to meet the requirements of and participate in the evaluation program and management information systems of the City. The City agrees that any final written reports generated through the evaluation program shall be made available to Contractor within thirty (30) working days. Contractor may submit a written response within thirty working days of receipt of any evaluation report and such response will become part of the official report.

D. Possession of Licenses/Permits:

Contractor warrants the possession of all licenses and/or permits required by the laws and regulations of the United States, the State of California, and the City to provide the Services. Failure to maintain these licenses and permits shall constitute a material breach of this Agreement.

E. Adequate Resources:

Contractor agrees that it has secured or shall secure at its own expense all persons, employees and equipment required to perform the Services required under this Agreement, and that all such Services shall be performed by Contractor, or under Contractor's supervision, by persons authorized by law to perform such Services.

2. Description of Services

Detailed description of services are listed below and are attached hereto

Appendix A-1 Scope of Work (SFGH/COPC)

Appendix A-2 Scope of Work (LHH)

Appendix A-3 Scope of Work (HAH)

APPENDIX A-1**SCOPE OF WORK****San Francisco General Hospital/Community Outpatient Primary Care (SFGH/COPC)****A. GENERAL SERVICES**

Task 1

A Toyon V.P or Director will attend meetings either monthly or quarterly as directed by SFGH/COPC Management, to review the status of projects being performed, review findings from contractual allowance analyses, establish priorities and discuss issues arising during the course of the engagement.

Task 2

Toyon will prepare the quarterly contractual allowance reviews for SFGH and COPC for the years 2014 through 2018 for the periods ending in February, June, September and November. The reviews will involve assessment of the adequacy of contractual allowance reserves and recorded cost report settlements that are on the general ledger.

Task 3

Toyon will prepare interim rate reviews to the Fiscal Intermediary (FI)/Medicare Administrative Contractor (MAC) to ensure SFGH/COPC are reimbursed at proper interim rates that include validation of the bi-weekly Periodic Interim Payments received by SFGH for inpatient PPS acute services. Toyon will verify the prior years' settlement activities at SFGH for all open third-party cost report settlement accounts (including tentative settlements, finalized Notice of Program Reimbursements, etc.) to ensure accurate recording of activities and assessment of the reserves established for open cost reports for financial reporting purposes.

B. REIMBURSEMENT SERVICES

Task 4

Toyon will provide SFGH/COPC information regarding new and proposed laws/regulations impacting SFGH/COPC. A weekly email will be distributed covering new/proposed regulations and/or relevant changes on both a federal and state level. Toyon will work with SFGH/COPC staff to further educate them on the specific regulations that will or could impact the organization.

Task 5

Toyon will prepare the annual OSHPD reports for the FYE June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017 using Toyon's proprietary automation software. During preparation of the OSHPD report, Toyon will analyze information specifically impacting other Medi-Cal reimbursements that include the Low-Income Utilization Ratio (LIUR)

calculation. The report will be prepared to ensure accuracy and compliance, as required by OSHPD instructions. Toyon will report to SFGH staff the updates needed in quarterly OSHPD reports to reconcile to the annual OSHPD filing. Toyon will respond to all external audit inquiries from OSHPD reviewers.

Task 6

Toyon will prepare the SFGH FYE June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017 Medicare and Medi-Cal cost reports using Toyon's proprietary automation software and prepare the Curry Senior Center Medicare and Medi-Cal cost and reconciliation reports. The reports will be prepared in compliance with all applicable laws, regulations and instructions, to be filed within the reporting guidelines required by the respective programs (typically five months after the end of a fiscal year). All applicable cost report schedules will be completed including Acute, Acute Psychiatric, Teaching Program, FQHC, Renal Dialysis, etc. for filing to the MAC and State of California Department of Health Care Services (DHCS). Appeal rights will be preserved through the use of the protested amounts section of the cost report and issues that are annually identified and updated by Toyon's Appeals Practice Group. The cost report preparation will also include the completion of:

Cost Report DSH related services include the following:

- DSH Eligible Days listing using the Point of Service System for Cost Report Filing
- DSH Eligible Day list completion based on the Historical Eligibility System and Toyon's proprietary system. This list will be prepared 13 months after the end of each cost report year, for purposes of optimizing the Medi-Cal eligible days for cost report finalization purposes.

Other areas of analysis, review and follow-up related to these cost reports include:

- Review wage data used for cost report filing and subsequent true-up of wage data during the CMS annual process for the development of new Medicare wage indices.
- Prepare and review the Occupational Mix filing required once every three years.
- Analyze and follow-up concerning Intern and Resident FTE recording and subsequent follow-up needed to clear over-lap issues with other health care organizations.
- Review and advise to update the time study capturing by SFGH for the identification of the Part A/B time allocation for staff physicians.
- Review the SFGH/COPC general ledger grouping used for both Cost Report and OSHPD report filings to ensure conformity with prescribed instructions.

Task 7

Based upon the results of the cost report preparation (Task 6), Toyon will prepare estimated reimbursement settlements and recommendations that may include:

- Recording of the appropriate Medicare/Medi-Cal cost report receivable/payable (filed vs. reserved) for general ledger recording purposes.
- Improving SFGH and COPC records and/or supporting documentation.
- Identifying reimbursement optimization for SFGH and COPC costs under the Section 1115 Waiver and any subsequent Waivers.

- Preparing for Medicare MAC audits of all open cost reports covering 6/30/07 to 6/30/12.

Task 8

Toyon will respond to questions raised by MACs or state agencies after filing and during the audits of the cost reports. Toyon will also evaluate the impact of proposed audit adjustments relative to SFGH/COPC's Medicare and Medi-Cal cost reports for FYE June 30, 2007 and subsequent fiscal periods. In addition, Toyon will review the auditors' work papers and determine the propriety of proposed adjustments. The purpose is to minimize adjustments to the SFGH/COPC reimbursement claims and to determine what issues should be disputed through appeals.

Task 9

Under Toyon's Public Hospital services team, Toyon will review the Medi-Cal Administrative Activities (MAA) quarterly financial claims for the period ending June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017 to ensure accuracy, completeness and compliance of the reports with the Policy and Procedures Letters and State Claiming Plans. Toyon will respond to all audit inquiries.

Task 10

Under Toyon's Appeal Services Practice Group, Toyon will pursue all Medicare and Medi-Cal appeals related to fiscal years 1996 – 2012 and all subsequent audited cost report periods. This process includes evaluation of issues, researching, developing documentation, preparing position papers, and representing SFGH/COPC at appeal or mediation hearings. The goal will be to obtain administrative resolution on appealed issues whenever possible and to ensure SFGH/COPC's appeal rights are protected. Toyon will seek to maximize all appeal recoveries under the current reimbursement rules and regulations.

Task 11

Under Toyon's Public Hospital Service Team, Toyon will review the Assembly Bill 915 – Medi-Cal Outpatient Fee-for-Service Supplemental claims for periods ending June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017. Toyon will also assist in the SNF wage pass-through and DP SNF supplemental claiming activities. The purpose of the reviews is to ensure compliance with claiming regulations and to ensure accuracy in the information being reported. As part of this review, Toyon will analyze the information specific to the Medi-Cal Outpatient Upper Payment Limit. Typically, the information used for this process is obtained through the purchase of paid claims reports. Toyon does not believe that a logging process is needed for this program. Toyon will respond to all audit inquiries.

Task 12

Toyon's Public Hospital Service Team will respond to technical questions related to the P14 filings, the AB 85 Realignment filings and other areas impacting County hospital reporting.

Task 13

Toyon will assist the COPC with the Medi-Cal audits of the reconciliation report for capturing the wrap around entitlements due FQHCs. Toyon will work with the auditors to minimize audit adjustments. Should an appeal be necessary, Toyon will evaluate the issues and documentation for the adjustments and file the appeal from the finalized reports. Toyon will represent the COPC at appeal through the informal, and if necessary, the formal level processes afforded providers with the State. If needed at the formal level, Toyon will engage a mutually-agreed attorney to represent COPC at the formal level.

Task 14

Upon request by SFGH/COPC, Toyon will assist on other reimbursement-related projects that could increase reimbursement to the organization.

C. SERVICES TO INCREASE THE MEDICAID RATIO AND SSI RATIO COMPONENTS OF MEDICARE DISPROPORTIONATE REIMBURSEMENT (DSH)

Toyon will assist SFGH in the optimization of the Medicaid and SSI ratios used to develop the reimbursement formula for Medicare DSH entitlements for fiscal years as early as 1986 through current years. Toyon will further pursue all potentially eligible days through the Medicare appeal process, by either individual or group appeal. Any appeal-related activities will be handled by Toyon's Appeal Services Group. Should outside legal assistance be needed, Toyon has formal agreements in place with highly qualified attorneys that have pursued DSH related appeals in court. Toyon will develop strategies to ensure optimization of data used to allocate the new DSH Uncompensated Care DSH reimbursements effective October 1, 2013. Days-related issues to pursue through appeal include:

1. Dual Eligible – Medicare Part C days
2. Dual Eligible – Medicare Part A exhausted days
3. Dual Eligible – Medicare Part A non-covered days.
4. Restricted eligibility days adjusted in audit.
5. Additional identified eligible days.
6. Understated SSI days from CMS match.

Toyon will utilize its DSH and Appeal Services Group to perform the following:

1. Toyon's DSH Services Group will prepare Medi-Cal eligible day documentation for all open cost reporting periods using Toyon's proprietary DSH eligibility matching system.
2. Toyon will pursue all viable DSH eligible days and SSI Ratio appeals through either individual or group appeals.

3. Toyon’s Appeal Services Group will file Medicare appeals, preliminary and final position papers, jurisdictional briefs and administrative resolutions proposals. Any and all challenges made by the Intermediary or CMS will be handled by Toyon.
4. As needed, Toyon will represent SFGH in Provider Reimbursement Review Board (PRRB) Hearings, if the issues cannot be administratively resolved. This includes the presentation of expert witness testimony.
5. Should an unfavorable PRRB decision be issued, Toyon will consult the City Attorney’s Office and will pursue the issue to court, if the issue continues to have merit.
6. Toyon will absorb all expenses associated with any legal proceedings as long as pursuit of the issue is subject to a contingent fee arrangement.

Compensation For These Services Will Be On A Contingency Fee & No Fees Or Expenses Are Due TOYON Unless Additional Reimbursement Is Realized

Cumulative Additional Reimbursement Generated Each Contract Year April Through March	Contingency Fee Percentage
\$1 though \$4,000,000	10-15%

Payments for these services will be calculated per the above formula as a percentage of the additional Medicare DSH reimbursement realized by TOYON as a result of their work. The additional reimbursement will either be a payment to SFGH by the Medicare Intermediary or a reduction of an outstanding liability.

D. INDIVIDUAL OR GROUP APPEALS

TOYON will advise SFGH of appeal issue(s) that it believes should be pursued. If SFGH agrees to pursue the issue(s), it will sign and execute an agreement with TOYON for each of the appeals which it wishes to participate on a contingency fee basis. If SFGH agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Section B, Task 10 above. This will include all appeals that are formed prior and during the length of this agreement for which SFGH wishes to participate.

Compensation For Services On A Contingency Fee Basis & No Fees Or Expenses Are Due TOYON Unless Additional Reimbursement Is Realized

Additional Reimbursement Generated Per Appeal for Each Contract Year April Through March	Contingency Fee Percentage
\$1 though \$4,000,000	10-15%

Payments for these services will be calculated per the above formula as a percentage of the additional reimbursement realized by TOYON as a result of their work. The additional

reimbursement will either be a payment to SFGH by the Intermediary or a reduction of an outstanding liability.

E. PROFESSIONAL SERVICES

There are times when DPH will require additional professional services. DPH shall submit a written request to TOYON with a Scope of Service. TOYON and DPH shall agree on number of hours and the estimated fees required to complete the project(s). DPH will supplement this contract with additional funds to cover the additional services.

APPENDIX A-2**SCOPE OF WORK****Laguna Honda Hospital (LHH)****A. GENERAL SERVICES**

Task 1

Toyon will attend four on-site meetings to be scheduled annually with Toyon engagement executive and LHH management. Conference calls will be scheduled on an as-needed basis regarding audits, cost report preparation, or other significant reimbursement issues.

B. REIMBURSEMENT SERVICES

Task 2

Toyon will assist Administrative Staff to analyze, interpret, and determine potential financial impact associated with new and proposed laws/regulations.

Task 3-4

Toyon will prepare the annual LHH Medicare and Medi-Cal cost reports and the Annual OSHP D Financial Disclosure Report using Toyon's proprietary automation software. The reports will be prepared in compliance with all applicable laws, regulations and instructions and within the filing deadlines required by Medicare and OSHPD. A work plan will be developed with LHH's CFO/Controller and regular progress reports will be provided. The report will be filed to ensure that all areas impacting reimbursement are optimally reported. LHH is primarily a skilled nursing facility (SNF) provider. The focus of preparation will involve the proper reporting of SNF costs for future Medi-Cal reimbursement purposes. Toyon will provide recommendations to ensure conformity with applicable regulations, including but not limited to:

- Review Wage Index and Occupational Mix Data for accuracy.
- Prepare revenue analysis and projections, as requested. LHH does not have an automated logging system
- Reconcile general ledger revenues to PS&R summary.
- Develop a methodology to extract ASC; Radiology and Other Part B charges.
- Develop a methodology to allocate physician compensation and Part A vs. Part B vs. teaching time to assigned cost centers.

Task 5

Based on the results of the cost report preparations (Task 4), Toyon will prepare and present a management report. LHH has little to no cost report settlement in the cost report filing. The management report primarily will involve a comparison of key data from year to year and quantitative analysis and recommendations for as-filed and audited cost reports.

Task 6

Toyon will reply to questions from the MAC or State Agencies concerning the cost reports filed and will support the process of audits performed for the cost reports. Toyon will also evaluate the impact of proposed audit adjustments relative to LHH's Medicare and Medi-Cal cost reports for FYE June 30, 2007 and subsequent fiscal periods. Toyon will work to minimize the audit adjustments and will identify issues for potential appeal.

Task 7

Toyon will prepare an interim rate review and cost settlement analysis for review by LHH's external financial auditors as part of the year-end process for the fiscal years identified under this agreement. The review will be completed based on collaboration with LHH's CFO/Controller.

Task 8

Toyon will pursue all viable Medicare and Medi-Cal appeals related to all open cost report settlements. Toyon will research all issues and develop documentation for preparation of position papers to Medicare and Medi-cal. The purpose is to recover entitled reimbursement dollars through the appeal process.

Task 9

Toyon will participate in Medicare and Medi-Cal audits and attend entrance and exit conferences as requested by LHH's CFO/Controller to facilitate audits that result in minimal adjustments impacting reimbursement.

Task 10

Toyon will review the DP/NF supplemental claims methodology to ensure conformity with regulations and optimize allowable reimbursement under the guidelines of the program.

Task 11

Under Toyon's Public Hospital Service Team, Toyon will review the AB 915 Medi-Cal Outpatient fee-for-service supplemental claims covering the fiscal years in the term of this agreement. The purpose of the review is to ensure compliance and accuracy in the reported filing.

Task 12

Toyon will prepare quarterly contractual allowance reviews for LHH for the years identified in the term of this agreement. The review will involve the assessment of the adequacy of contractual allowance reserves on the general ledger for financial reporting purposes.

Task 13

Toyon will assist LHH with various other projects that will increase reimbursement upon request from LHH management.

C. INDIVIDUAL OR GROUP APPEALS

TOYON will advise LHH of appeal issue(s) that it believes should be pursued. If LHH agrees to pursue the issue(s), it will sign and execute an agreement with TOYON for each of the appeals which it wishes to participate on a contingency fee basis. If LHH agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Section B, Task 8 above. This will include all appeals that are formed prior and during the length of this agreement for which LHH wishes to participate.

Compensation For Services On A Contingency Fee Basis & No Fees Or Expenses Are Due TOYON Unless Additional Reimbursement Is Realized

Additional Reimbursement Generated Per Appeal for Each Contract Year April Through March	Contingency Fee Percentage
\$1 though \$666,666	10-15%

Payments for these services will be calculated per the above formula as a percentage of the additional reimbursement realized by TOYON as a result of their work. The additional reimbursement will either be a payment to LHH by the Intermediary or a reduction of an outstanding liability.

D. PROFESSIONAL SERVICES

There are times when DPH will require additional professional services. LHH shall submit a written request to TOYON with a Scope of Service. TOYON and LHH shall agree on number of hours and the estimated fees required to complete the project(s). LHH will supplement this contract with additional funds to cover the additional services.

APPENDIX A-3

SCOPE OF WORK

Health at Home Agency (HAH)

HOME CARE REIMBURSEMENT AND COST REPORTING

Task 1

Toyon will assist administrative staff to analyze, interpret and determine potential financial impact associated with new and proposed laws/regulations.

Task 2

Toyon will prepare HAH's Medicare cost report for the fiscal periods under this agreement. The report will be prepared in conjunction with HAH staff and will allow adequate time for review of the report. The report will be completed within the reporting timeframe established by the Medicare program. Given the prospective payment nature of the reimbursement, this filing is largely compliance in nature and typically has no cost report settlement. Current availability of Medicare payment summary information has largely eliminated the need for Medicare logs.

Task 3

Toyon will respond to any inquiries from the intermediary for the Medicare cost reports filed under this agreement during the desk review process. These reports are no longer audited, as the reimbursement is under a prospective payment system (PPS) without any settlements due to/from implications.

Task 4

Upon the request of HAH management, Toyon will present to HAH business and administrative staff written recommendations that will help HAH improve record keeping for the cost report filing, which could help future reimbursement.

Task 5

Toyon will assist HAH with other projects that could help improve reimbursement upon request from HAH management.

Appendix B
Calculation of Charges
For SFGH/COPC, HAH, & LHH

1. Method of Payment

A. Appendix B-1a – B-5d

Professional Fees

CONTRACTOR shall submit monthly invoices by the fifteenth (15th) working day of each month, in the format attached in Appendix F, based upon the number of units of service that were delivered in the immediately preceding month. All deliverables associated with the Services listed in Section 2 of appendix A, times the unit rate as shown in the Program Budgets listed in Section 2 of Appendix B shall be reported on the invoice(s) each month.

Expenses

Contractor shall submit monthly invoices in the format attached in Appendix F, by the fifteen (15th) working day of each month for reimbursement of the actual costs for Services of the immediately preceding month. All costs associated with the Services shall be reported on the invoice each month. All costs incurred under this Agreement shall be due and payable only after Services have been rendered and in no case in advance of such services.

B. Appendix B-2 and B-4

Contractor shall submit an invoice within thirty (30) days of notification that SFGH/COPC and/or LHH have received additional reimbursement for services identified in Appendix B-2 and Appendix B-4. The invoice amounts will be calculated as 10-15% of the additional reimbursement received by SFGH/COPC and/or LHH. No professional fees or expenses will be billed to SFGH/COPC and/or LHH for these services unless recoveries are made.

2. Program Budgets and Final Invoice

A. Program Budgets are listed below and are attached hereto.

Budget Summary

Appendix B-1a SFGH/COPC April 1, 2014 – March 31, 2015

Appendix B-1b SFGH/COPC April 1, 2015 – March 31, 2016

Appendix B-1c SFGH/COPC April 1, 2016 – March 31, 2017

Appendix B-1d SFGH/COPC April 1, 2017 – March 31, 2018

Appendix B-2 Budget for Compensation for Appeal Services paid only if SFGH receives additional reimbursement, known as Contingent Fee Services

Appendix B-3a LHH April 1, 2014 – March 31, 2015

Appendix B-3b LHH April 1, 2015 – March 31, 2016

Appendix B-3c LHH April 1, 2016 – March 31, 2017

Appendix B-3d LHH April 1, 2017 – March 31, 2018

Appendix B-4 Budget for Compensation for Appeal Services paid only if LHH receives additional reimbursement, known as Contingent Fee Services

	SFGH	HAH	LHH	TOTAL
April 1, 2014 through March 30, 2015	\$973,896	\$25,962	\$226,688	\$1,226,546
April 1, 2015 through March 30, 2016	\$983,265	\$26,712	\$230,132	\$1,240,109
April 1, 2016 through March 30, 2017	\$994,538	\$27,686	\$234,466	\$1,256,690
April 1, 2017 through March 30, 2018	\$1,005,810	\$28,661	\$238,801	\$1,273,272
April 1, 2014 through March 30, 2018	\$3,957,509	\$109,021	\$930,087	\$4,996,617

(3) CONTRACTOR understands that the CITY may need to adjust sources of revenue and agrees that these needed adjustments will become part of this Agreement by written modification to CONTRACTOR. In event that such reimbursement is terminated or reduced, this Agreement shall be terminated or proportionately reduced accordingly. In no event will CONTRACTOR be entitled to compensation in excess of these amounts for these periods without first being a modification of the Agreement or a revision to Appendix B Budget, as provided for in this section of this Agreement.

C. CONTRACTOR agrees to comply with its Budget as shown in Appendix B in the provision of SERVICES. Changes to the budget that do not increase or reduce the maximum dollar obligation of the CITY are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. CONTRACTOR agrees to comply fully with that policy/procedure.

D. No costs or charges shall be incurred under this Agreement nor shall any payments become due to CONTRACTOR until reports, SERVICES, or both, required under this Agreement are received from CONTRACTOR and approved by the DIRECTOR as being in accordance with this Agreement. CITY may withhold payment to CONTRACTOR in any instance in which CONTRACTOR has failed or refused to satisfy any material obligation provided for under this Agreement.

E. In no event shall the CITY be liable for interest or late charges for any late payments.

APPENDIX B-1a

BUDGET

April 1, 2014 – March 31, 2015

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	16	0
2	Quarterly	30	70	325
3	On-going Sep 14	1	12	60
4	On-going	0	30	0
5	Nov-14	2	4	75
6	Nov-14	4	12	135
7	On-going	2	12	34
8	On-going	4	20	60
9	Quarterly	0	10	0
10	On-going	7	70	200
11	Mar-14	0	4	0
12	On-going	0	40	0
13	On-going	0	0	80
14	On-going	8	40	40
Total Hours		62	340	1,009
Hourly Billing Rate		\$300	\$240	\$150
Total Fees		\$18,600	\$81,600	\$151,350
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$251,550	\$18,000	\$269,550

APPENDIX B-1b

BUDGET

April 1, 2015 – March 31, 2016

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	16	0
2	Quarterly	30	70	325
3	On-going Sep 15	1	12	60
4	On-going	0	30	0
5	Nov-15	2	4	75
6	Nov-15	4	12	135
7	On-going	2	12	34
8	On-going	4	20	60
9	Quarterly	0	10	0
10	On-going	7	70	200
11	Mar-15	0	4	0
12	On-going	0	40	0
13	On-going	0	0	80
14	On-going	8	40	40
Total Hours		62	340	1,009
Hourly Billing Rate		310	245	155
Total Fees		\$19,220	\$83,300	\$156,395
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$258,915	\$19,000	\$277,915

APPENDIX B-1c

BUDGET

April 1, 2016 – March 31, 2017

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	16	0
2	Quarterly	30	70	325
3	On-going Sep 16	1	12	60
4	On-going	0	30	0
5	Nov-16	2	4	75
6	Nov-16	4	12	135
7	On-going	2	12	34
8	On-going	4	20	60
9	Quarterly	0	10	0
10	On-going	7	70	200
11	Mar-16	0	4	0
12	On-going	0	40	0
13	On-going	0	0	80
14	On-going	8	40	40
Total Hours		62	340	1,009
Hourly Billing Rate		320	255	160
Total Fees		\$19,840	\$86,700	\$161,440
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$267,980	\$20,000	\$287,980

APPENDIX B-1d

BUDGET

April 1, 2017 – March 31, 2018

San Francisco General Hospital / Community Outpatient Primary Care Clinics

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	16	0
2	Quarterly	30	70	325
3	On-going Sep 17	1	12	60
4	On-going	0	30	0
5	Nov-17	2	4	75
6	Nov-17	4	12	135
7	On-going	2	12	34
8	On-going	4	20	60
9	Quarterly	0	10	0
10	On-going	7	70	200
11	Mar-17	0	4	0
12	On-going	0	40	0
13	On-going	0	0	80
14	On-going	8	40	40
Total Hours		62	340	1,009
Hourly Billing Rate		330	265	165
Total Fees		\$20,460	\$90,100	\$166,485
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 14		\$277,045	\$21,000	\$298,045

APPENDIX B-2

BUDGET

April 1, 2014 – March 31, 2018

San Francisco General Hospital / Community Outpatient Primary Care Clinics

TOYON will advise SFGH/COPC of appeal issue(s) that it believes should be pursued. If SFGH/COPC agrees to pursue the issue(s), it will sign and execute an agreement with the TOYON for each of the appeals which it wishes to participate on a contingency fee basis. If SFGH/COPC agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Task 10. This will include all appeals that are formed prior and during the length of this agreement for which SFGH/COPC wishes to participate.

Contract Term	Amount of Additional Reimbursement DPH Realized as a Result of Toyon's Efforts	Toyon's Fee (% of Additional Reimbursement)	Comments
04/1/14 - 03/31/15	\$1 to \$4,000,000	10-15%	New Appeals
04/1/15 - 03/31/16	\$1 to \$4,000,000	10-15%	New Appeals
04/1/16 - 03/31/17	\$1 to \$4,000,000	10-15%	New Appeals
04/1/17 - 03/31/18	\$1 to \$4,000,000	10-15%	New Appeals

Note:

1. All new appeals filed on or after 4/1/14 will be subject to a 10-15% contingent fee with a maximum fee of \$600,000 per contract year.

APPENDIX B-3a

BUDGET

April 1, 2014 – March 31, 2015

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	12	0
2	On-going	4	12	12
3	Jul-14	1	4	8
4	Nov-14	4	12	80
5	Jan-15	2	6	8
6	On-going	4	12	25
7	Nov-14	2	8	20
8	On-going	4	24	60
9	On-going	2	10	24
10	Quarterly	0	12	20
11	Mar-14	0	3	6
12	Quarterly	12	24	75
13	On-going	10	20	20
Total Hours		49	159	358
Hourly Billing Rate		\$300	\$240	\$130
Total Fees		\$14,700	\$38,160	\$46,540
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$99,400	\$3,000	\$102,400

APPENDIX B-3b

BUDGET

April 1, 2015 – March 31, 2016

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	12	0
2	On-going	4	12	12
3	Jul-15	1	4	8
4	Nov-15	4	12	80
5	Jan-16	2	6	8
6	On-going	4	12	25
7	Nov-15	2	8	20
8	On-going	4	24	60
9	On-going	2	10	24
10	Quarterly	0	12	20
11	Mar-15	0	3	6
12	Quarterly	12	24	75
13	On-going	10	20	20
Total Hours		49	159	358
Hourly Billing Rate		\$310	\$245	\$135
Total Fees		\$15,190	\$38,955	\$48,330
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$102,475	\$3,000	\$105,475

APPENDIX B-3c

BUDGET

April 1, 2016 – March 31, 2017

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	12	0
2	On-going	4	12	12
3	Jul-16	1	4	8
4	Nov-16	4	12	80
5	Jan-17	2	6	8
6	On-going	4	12	25
7	Nov-16	2	8	20
8	On-going	4	24	60
9	On-going	2	10	24
10	Quarterly	0	12	20
11	Mar-16	0	3	6
12	Quarterly	12	24	75
13	On-going	10	20	20
Total Hours		49	159	358
Hourly Billing Rate		\$320	\$255	\$140
Total Fees		\$15,680	\$40,545	\$50,120
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$106,345	\$3,000	\$109,345

APPENDIX B-3d

BUDGET

April 1, 2017 – March 31, 2018

Laguna Honda Hospital

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	4	12	0
2	On-going	4	12	12
3	Jul-17	1	4	8
4	Nov-17	4	12	80
5	Jan-18	2	6	8
6	On-going	4	12	25
7	Nov-17	2	8	20
8	On-going	4	24	60
9	On-going	2	10	24
10	Quarterly	0	12	20
11	Mar-17	0	3	6
12	Quarterly	12	24	75
13	On-going	10	20	20
Total Hours		49	159	358
Hourly Billing Rate		\$330	\$265	\$145
Total Fees		\$16,170	\$42,135	\$51,910
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 13		\$110,215	\$3,000	\$113,215

APPENDIX B-4

BUDGET

April 1, 2014 – March 31, 2018

Laguna Honda Hospital

TOYON will advise LHH of appeal issue(s) that it believes should be pursued. If LHH agrees to pursue the issue(s), it will sign and execute an agreement with the TOYON for each of the appeals which it wishes to participate on a contingency fee basis. If LHH agrees to pursue the issues(s) on a fee-for-service basis, those fees will fall under Task 10. This will include all appeals that are formed prior and during the length of this agreement for which LHH wishes to participate.

Contract Term	Amount of Additional Reimbursement DPH Realized as a Result of Toyon's Efforts	Toyon's Fee (% of Additional Reimbursement)	Comments
04/1/14 - 03/31/15	\$1 to \$666,666	10-15%	New Appeals
04/1/15 - 03/31/16	\$1 to \$666,666	10-15%	New Appeals
04/1/16 - 03/31/17	\$1 to \$666,666	10-15%	New Appeals
04/1/17 - 03/31/18	\$1 to \$666,666	10-15%	New Appeals

Note:

1. All new appeals filed on or after 4/1/14 will be subject to a 10-15% contingent fee with a maximum fee of \$100,000 per contract year

APPENDIX B-5a

BUDGET

April 1, 2014 – March 31, 2015

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	1	16	8
2	Nov-14	1	4	32
3	On-going	1	4	8
4	Jan-15	2	4	8
5	On-going	4	12	20
Total Hours		9	40	76
Hourly Billing Rate		\$300	\$240	\$130
Total Fees		\$2,700	\$9,600	\$9,880
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$22,180	\$1,000	\$23,180

APPENDIX B-5b

BUDGET

April 1, 2015 – March 31, 2016

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	1	16	8
2	Nov-15	1	4	32
3	On-going	1	4	8
4	Jan-16	2	4	8
5	On-going	4	12	20
Total Hours		9	40	76
Hourly Billing Rate		\$310	\$245	\$135
Total Fees		\$2,790	\$9,800	\$10,260
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$22,850	\$1,000	\$23,850

APPENDIX B-5c

BUDGET

April 1, 2016 – March 31, 2017

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	1	16	8
2	Nov-16	1	4	32
3	On-going	1	4	8
4	Jan-17	2	4	8
5	On-going	4	12	20
Total Hours		9	40	76
Hourly Billing Rate		\$320	\$255	\$140
Total Fees		\$2,880	\$10,200	\$10,640
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$23,720	\$1,000	\$24,720

APPENDIX B-5d

BUDGET

April 1, 2017 – March 31, 2018

Health at Home

Team Member	Name
Engagement Executive:	Ronald Knapp
Financial/Reimbursement Team Leader:	Nancy Kaatz

Task	Estimated Completion Date (Month/Year)	Engagement Team Hours / Fees		
		Executive	Team Leader	Professional Staff
1	On-going	1	16	8
2	Nov-17	1	4	32
3	On-going	1	4	8
4	Jan-18	2	4	8
5	On-going	4	12	20
Total Hours		9	40	76
Hourly Billing Rate		\$330	\$265	\$145
Total Fees		\$2,970	\$10,600	\$11,020
		Fees	Expenses	Grand Total
Total Not-to-Exceed Tasks 1 – 5		\$24,590	\$1,000	\$25,590



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/23/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed, if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Direct-Link Insurance Services, LLC License Number 0C69145 7200 Redwood Blvd Suite 400 Novato CA 94945	CONTACT NAME: Gail Hodges	
	PHONE (A/C, No, Ext): (415) 892-8575 FAX (A/C, No): (415) 899-8668 E-MAIL ADDRESS: hodgesg@dlink.com	
INSURED Toyon Associates Inc. 1800 Sutter St., Ste. 600 Concord CA 94520	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Valley Forge Insurance Company	20508
	INSURER B: Continental Casualty Company	20443
	INSURER C: Capital Specialty Ins. Corp.	10328
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: CL13122309354 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSR W/VD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	4031148743	1/1/2014	1/1/2015	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	X	4031148743	1/1/2014	1/1/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	4029347399	1/1/2014	1/1/2015	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					
C	PROFESSIONAL LIABILITY		SGC03979-01	1/1/2014	1/1/2015	EA. ERRONEOUS ACT 5,000,000 AGGREGATE 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
CITY & COUNTY OF SAN FRANCISCO, ITS OFFICERS, AGENTS, EMPLOYERS ARE NAMED AS ADDITIONAL INSURED PER SB-146932-D 07/09, BUT ONLY INSOFAR AS THE OPERATIONS UNDER CONTRACT ARE CONCERNED - GL & AUTO LIABILITY ARE PRIMARY INSURANCE TO ANY OTHER INSURANCE AVAILABLE. CERTIFICATE HOLDER IS GRANTED A 30 DAY NOTICE OF CANCELLATION WITH THE EXCEPTION OF A 10 DAY NOTICE FOR NON PAYMENT OF PREMIUM

CERTIFICATE HOLDER	CANCELLATION
San Francisco Department of Public Health Office of Contract Mgmt. Compliance Junko Craft 10 Howard St., #442 San Francisco, CA 94103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
BLANKET ADDITIONAL INSURED - LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Policy.

1. ADDITIONAL INSURED - BLANKET VENDORS

WHO IS AN INSURED is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omission or those of its

employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs e, or f; or
- (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

2. MISCELLANEOUS ADDITIONAL INSUREDS

WHO IS AN INSURED is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal and advertising injury," but

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. Additional insured - Your Work

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting

from your work for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this endorsement and paragraph F.3. of the definition of "insured contract" under Liability and Medical Expenses Definitions do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, callar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

c. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

d. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

f. Owners/Other Interests - Land Is Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or

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(2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owner's liability as co-owner of such premises.

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

3. The following is added to Paragraph H. of the **BUSINESSOWNERS COMMON POLICY CONDITIONS**:

H. Other Insurance

4. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing.

4. **LEGAL LIABILITY - DAMAGE TO PREMISES**

- A. Under B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k.

Damage To Property, is replaced by the following:

k. Damage To Property

"Property damage" to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the insured;
5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D - Liability and Medical Expenses Limits of Insurance.

1 [Contract Amendment - Toyon Associates, Inc. - Not to Exceed \$4,996,617]

2
3 **Resolution approving an amendment to the contract between the Department of Public**
4 **Health and the Toyon Associates, Inc., to provide regulatory reporting/reimbursement**
5 **and revenue optimization services for an amount not to exceed \$4,996,617 for an**
6 **additional three and one half years, for the term April 1, 2014, through March 31, 2018.**

7
8 WHEREAS, The Department of Public Health selected Toyon Associates, Inc., to
9 provide regulatory reporting/reimbursement and revenue optimization services through a
10 Request for Proposals process in July 2013; and

11 WHEREAS, The Department established an agreement with Toyon Associates, Inc.,
12 for these services in an amount not to exceed \$614,813 for the contract term April 1, 2014,
13 through September 30, 2014; and


14 WHEREAS, The Department wishes to amend the contract to add \$4,381,804 and an
15 additional three and one half years to the term, extending the contract through March 31,
16 2018; and

17 WHEREAS, San Francisco Charter, Section 9.118, requires contracts having
18 anticipated revenue of \$1,000,000 or more to be approved by the Board of Supervisors by
19 resolution; now, therefore, be it

20 RESOLVED, That the Board of Supervisors hereby authorizes the Director of Health
21 and the Office of Contract Administration/Purchaser, on behalf of the City and County of San
22 Francisco, to execute a contract with Toyon Associates, Inc., for the period of April 1, 2014,
23 through March 31, 2018, to provide regulatory reporting/reimbursement and revenue
24 optimization services for a cost not to exceed \$4,996,617.


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RECOMMENDED:

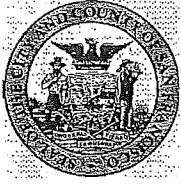


Barbara A. Garcia, MPA
Director of Health

APPROVED:



Mark Morewitz
Secretary to the Health Commission



City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 140747

Date Passed: September 09, 2014

Resolution approving an amendment to the contract between the Department of Public Health and the Toyon Associates, Inc., to provide regulatory reporting/reimbursement and revenue optimization services, for an amount not to exceed \$4,996,617 for an additional three and one-half years, for the term April 1, 2014, through March 31, 2018.

September 03, 2014 Budget and Finance Committee - AMENDED

September 03, 2014 Budget and Finance Committee - RECOMMENDED AS AMENDED

September 09, 2014 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 140747

I hereby certify that the foregoing Resolution was ADOPTED on 9/9/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved



San Francisco Department of Public Health

Greg Wagner
Acting Director of Health

City and County of San Francisco
London Breed, Mayor

October 29, 2018

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Please find enclosed a proposed resolution for Board of Supervisors approval to amend the Department of Public Health's agreement with Toyon Associates, Inc. for the continued provision of regulatory reporting/reimbursement and revenue optimization services for Zuckerberg San Francisco General Hospital.

This contract amendment requires Board of Supervisors approval under San Francisco Charter Section 9.118, as it was entered into in anticipation of having revenues of \$1,000,000 or more.

The following is a list of accompanying documents:

- o Proposed resolution and second amendment;
- o Original agreement and first amendment;
- o Resolution No. 329-14 (File No. 140747);
- o Forms SFEC-126 for the Board of Supervisors and the Mayor.

For more information, please contact: Jacquie Hale, Office of Contracts Management and Compliance, Department of Public Health, (415) 255-3508 (Jacquie.Hale@SFDPH.org).

Thank you for your time and consideration.

Sincerely,

Jacquie Hale
Manager
Office of Contracts Management and Compliance
DPH Business Office

2018 OCT 29 AM 11:17
BOARD OF SUPERVISORS
SAN FRANCISCO
ALCOBEN

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~

~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

Jacquie.hale@sfdph.org – office 415-255-3508 – 1380 Howard Street #421b, San Francisco, CA 94103

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL**
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Toyon Associates, Inc.	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
Thomas P. Knight President/Owner Jahanna Knight Owner Ronald G. Knapp Executive Vice President Trahan H. Whitten, Executive Vice President Debora Faith Darden, Controller (CFO)	
Contractor address: 1800 Sutter St.; Suite 600 Concord, CA 94520	
Date that contract was approved:	Amount of contract: \$10,051,977
Describe the nature of the contract that was approved: regulatory reporting/reimbursement and revenue optimization services	
Comments:	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form
- a board on which the City elective officer(s) serves **Board of Supervisors**
Print Name of Board

- the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed