

**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 Language Line Solutions, Inc.  
TC 99300 Language Access Interpretation Services**

This Agreement is made this 26<sup>th</sup> day of July 2018, in the City and County of San Francisco (“City”), State of California, by and between Language Line Solutions 1 Lower Ragsdale Drive, Bldg. 2, Monterey CA, 93940, (“Contractor”) and City.

**Recitals**

WHEREAS, the Office of Civic Engagement & Immigrant Affairs (“Department”) wishes to provide city department access to telephonic and video language interpretation services; and,

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a Request for Proposal (“RFP”) issued on April 20, 2018, in which City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, there is no Local Business Entity (“LBE”) subcontracting participation requirement for this Agreement; and

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

WHEREAS, the City’s Civil Service Commission approved Contract number 49331 – 17/18 on April 6, 2018;

Now, THEREFORE, the parties agree as follows:

**Article 1 Definitions**

The following definitions apply to this Agreement:

1.1 “Agreement” means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein.

1.2 “City” or “the City” means the City and County of San Francisco, a municipal corporation, acting by and through both its Director of the Office of Contract Administration or the Director’s designated agent, hereinafter referred to as “Purchasing,” and the Office of Civic Engagement & Immigrant Affairs.”

1.3 "CMD" means the Contract Monitoring Division of the City.

1.4 "Contractor" or "Consultant" means Language Line Solutions, Inc., 1 Lower Ragsdale Drive, Bldg. 2, Monterey CA, 93940.

1.5 "Deliverables" means Contractor's work product resulting from the Services that are provided by Contractor to City during the course of Contractor's performance of the Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

1.6 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.7 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, that impose specific duties and obligations upon Contractor.

1.8 "Party" and "Parties" mean the City and Contractor either collectively or individually.

1.9 "Services" means the work performed by Contractor under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

## **Article 2 Term of the Agreement**

2.1 The term of this Agreement shall commence on the later of: (i) August 1, 2018; or (ii) the Effective Date and expire on July 31, 2020, unless earlier terminated as otherwise provided herein.

2.2 The City has three (3) options to renew the Agreement for a period of one (1) year each. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

## **Article 3 Financial Matters**

3.1 **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.

**3.2 Guaranteed Maximum Costs.** The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

**3.3 Compensation.**

**3.3.1 Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the City's designated representative, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed \$4,000,000.00. The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to both parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments.

**3.3.2 Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments from City until the City approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services 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 at no cost to the City.

**3.3.3 Withhold Payments.** If Contractor fails to provide Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein.

**3.3.4 Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City as specified in 3.3.6 or in such alternate manner as the Parties have mutually agreed upon in writing.

**3.3.5 Reserved (LBE Payment and Utilization Tracking System.)**

### **3.3.6 Getting paid for goods and/or services from the City.**

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through the City's Automated Clearing House (ACH) payments service/provider. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit [www.sfgov.org/ach](http://www.sfgov.org/ach).

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

### **3.3.7 Reserved (Grant Funded Contracts).**

**3.4 Audit and Inspection of Records.** Contractor agrees to maintain and make available to the City, during regular business hours, accurate accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such 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 fewer 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 as conferred upon City by this Section.

**3.5 Submitting False Claims.** The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (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.

### **3.6 Reserved (Payment of Prevailing Wages).**

## Article 4 Services and Resources

4.1 **Services Contractor Agrees to Perform.** Contractor agrees to perform the Services provided for in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 **Qualified Personnel.** Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

### 4.3 Subcontracting.

4.3.1 Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

### 4.4 Independent Contractor; Payment of Employment Taxes and Other Expenses.

4.4.1 **Independent Contractor.** For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, 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, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. 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. Contractor

agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

**4.4.2 Payment of Employment 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, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

**4.5 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 Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

**4.6 Warranty.** Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

**4.7 Reserved (Bonding Requirements).**

## 5.1 Insurance. Article 5 Insurance and Indemnity

5.1.1 **Required Coverages.** 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:

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

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

(c) 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.

(d) 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 the Services.

(e) Technology Errors and Omissions Liability coverage, with limits of \$1,000,000 each occurrence and each loss, and \$2,000,000 general aggregate. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

(i) Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks; and

(ii) Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

(f) Contractor shall maintain in force during the full life of the agreement Cyber and Privacy Insurance with limits of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in electronic form.

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

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

(b) 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.

5.1.3 Contractor shall provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 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.

5.1.5 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.

5.1.6 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.

5.1.7 Before commencing any Services, 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. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

5.1.8 The Workers' Compensation policy(ies) 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.

5.1.9 If Contractor will use any subcontractor(s) to provide Services, Contractor shall be responsible for setting subcontractor(s) insurance requirements.

**5.2 Indemnification.** Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises 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, 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 reasonable 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 arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

## **Article 6 Liability of the Parties**

**6.1 Liability of City.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," 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.

**6.2 Liability for Use of Equipment.** City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

**6.3 Liability for Incidental and Consequential Damages.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CONTRACTOR SHALL NOT BE RESPONSIBLE FOR INCIDENTAL AND CONSEQUENTIAL DAMAGES RESULTING IN WHOLE OR IN PART FROM CONTRACTOR'S ACTS OR OMISSIONS. HOWEVER, CONTRACTOR SHALL BE LIABLE FOR INCIDENTAL AND CONSEQUENTIAL DAMAGES RESULTING FROM (1) DAMAGES CAUSED BY CONTRACTOR'S GROSS NEGLIGENCE, RECKLESS CONDUCT OR WILLFUL ACTS OR OMISSIONS, (2) CLAIMS OR DAMAGES THAT FALL WITHIN THE INSURANCE COVERAGE OF THIS AGREEMENT, (3) STATUTORY DAMAGES, INCLUDING THOSE SPECIFIED IN THIS AGREEMENT, (4) CONTRACTOR'S OBLIGATION TO INDEMNIFY AND DEFEND CITY

PURSUANT TO THE GENERAL INDEMNIFICATION CLAUSE AND FOR INTELLECTUAL PROPERTY INFRINGEMENT, (5) CONTRACTOR'S WARRANTIES UNDER THIS AGREEMENT, (6) WRONGFUL DEATH CAUSED BY CONTRACTOR, (7) PUNITIVE DAMAGES, (8) FINES, EXPENSES, DAMAGES CAUSED BY CONTRACTOR'S VIOLATION OF FEDERAL, STATE OR LOCAL LAWS REGARDING PRIVACY AND/OR HEALTH INFORMATION AND (9) DAMAGES CAUSED BY CONTRACTOR'S DEFAULT OR BREACH OF THE AGREEMENT.

#### **Article 7 Payment of Taxes**

7.1 Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

7.2 Contractor acknowledges 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:

7.2.1 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.

7.2.2 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.

7.2.3 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.

7.2.4 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.

#### **Article 8 Termination and Default**

##### **8.1 Termination for Convenience**

8.1.1 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 30 days' written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, 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:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) 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.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may reasonably 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.

8.1.3 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:

(a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services 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. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) 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.

(d) 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.

8.1.4 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 Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under 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 Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, City may deduct: (i) all payments previously made by City for Services covered by Contractor's final invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

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

**8.2 Termination for Default; Remedies.**

8.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

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

3.5	Submitting False Claims.	10.10	Alcohol and Drug-Free Workplace
4.5	Assignment		
Article 5	Insurance and Indemnity	11.10	Compliance with Laws
Article 7	Payment of Taxes	13.1	Nondisclosure of Private, Proprietary or Confidential Information

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) 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; (iii) makes an assignment for the benefit of its creditors; (iv) 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 (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) 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, (ii) 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 (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.2 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, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 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. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 **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.

**8.4 Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.4	Audit and Inspection of Records	9.2	Works for Hire
		11.6	Dispute Resolution Procedure
3.5	Submitting False Claims	11.7	Agreement Made in California;

			Venue
Article 5	Insurance and Indemnity	11.9	Entire Agreement
6.1	Liability of City		
6.3	Liability for Incidental and Consequential Damages	11.10	Compliance with Laws
Article 7	Payment of Taxes	11.11	Severability
8.1.6	Payment Obligation	13.1	Nondisclosure of Private, Proprietary or Confidential Information

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall 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.

#### **Article 9 Rights In Deliverables**

9.1 **Ownership of Results.** Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors for the purposes of this agreement, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 **Works for Hire.** If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, 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 shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

#### **Article 10 Additional Requirements Incorporated by Reference**

10.1 **Laws Incorporated by Reference.** The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by

reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at [http://www.amlegal.com/codes/client/san-francisco\\_ca/](http://www.amlegal.com/codes/client/san-francisco_ca/).

**10.2 Conflict of Interest.** By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

**10.3 Prohibition on Use of Public Funds for Political Activity.** In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

**10.4 Reserved.**

**10.5 Nondiscrimination Requirements.**

**10.5.1 Non Discrimination in Contracts.** Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

**10.5.2 Nondiscrimination in the Provision of Employee Benefits.** San Francisco Administrative Code 12B.2. 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 employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

**10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance.** Contractor shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Contractor is subject to the enforcement and penalty provisions in Chapter 14B.

**10.7 Minimum Compensation Ordinance.** Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Contractor certifies that it is in compliance with Chapter 12P.

**10.8 Health Care Accountability Ordinance.** Contractor shall comply with San Francisco Administrative Code Chapter 12Q. Contractor shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q.

**10.9 First Source Hiring Program.** Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that

apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

**10.10 Alcohol and Drug-Free Workplace.** City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

**10.11 Limitations on Contributions.** By executing 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. 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. Contractor must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

**10.12 Reserved (Slavery Era Disclosure).**

**10.13 Reserved (Working with Minors).**

**10.14 Consideration of Criminal History in Hiring and Employment Decisions.**

10.14.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.



10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.15 **Reserved (Public Access to Nonprofit Records and Meetings).**

10.16 **Food Service Waste Reduction Requirements.** Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.17 **Sugar-Sweetened Beverage Prohibition.** Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

10.18 **Reserved (Tropical Hardwood and Virgin Redwood Ban).**

10.19 **Reserved (Preservative Treated Wood Products).**

#### **Article 11 General Provisions**

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

To City: Adrienne Pon, Office of Civic Engagement & Immigrant Affairs,  
50 Van Ness Ave., San Francisco, CA 94102  
Adrienne.Pon@sfgov.org

To Contractor: Patrick Thomas, Strategic Sales Executive  
One Lower Ragsdale Drive Building 2  
Monterey, CA 93940  
jthomas@languageline.com

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

11.2 **Compliance with Americans with Disabilities Act.** Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 **Reserved.**

11.4 **Sunshine Ordinance.** Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such

records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

**11.5 Modification of this Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and 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).

**11.6 Dispute Resolution Procedure.**

**11.6.1 Negotiation; Alternative Dispute Resolution.** The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

**11.6.2 Government Code Claim Requirement.** No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

**11.6.3 Reserved (Health and Human Service Contract Dispute Resolution Procedure).**

**11.7 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.

**11.8 Construction.** All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.9 **Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

11.10 **Compliance with Laws.** Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules 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.

11.11 **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.

11.12 **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Contractor, 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.

11.13 **Order of Precedence.** Contractor agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City's terms and Contractor's printed terms attached, the City's terms shall take precedence, followed by the procurement issued by the department, Contractor's proposal, and Contractor's printed terms, respectively.

## **Article 12 Department Specific Terms**

12.1 **Reserved.**

## **Article 13 Data and Security**

13.1 **Nondisclosure of Private, Proprietary or Confidential Information.**

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

13.1.2 In the performance of Services, Contractor may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Contractor, such information must be

held by Contractor in confidence and used only in performing 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 or confidential information.

**13.2 Reserved (Payment Card Industry (“PCI”) Requirements).**

**13.3 Business Associate Agreement.** With respect to information covered by the U.S. Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), a Business Associate Agreement (“BAA”) is attached as Appendix C.

**Article 14 MacBride And Signature**

**14.1 MacBride Principles - Northern Ireland.** The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

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

**CITY**

Recommended by:



Adrienne Pon  
Executive Director, Office of Civic Engagement  
& Immigrant Affairs

**CONTRACTOR**

Language Line Solutions, Inc.

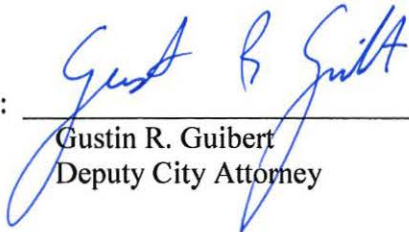


Scott Merritt  
Vice President of Operations  
1 Lower Ragsdale Drive, Bldg. 1  
Monterey, CA 93940

Supplier ID number: 000001661

Approved as to Form:

Dennis J. Herrera  
City Attorney

By:   
Gustin R. Guibert  
Deputy City Attorney

Approved:

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

**Appendices**

- A: Scope of Services
- B: Fee Schedule
- C: Business Associate Agreement
- D: Non-Disclosure Agreement

**Appendix A**  
**Services to be provided by Contractor**

**SECTION 1 – DEFINITIONS**

- 1.1. Core Language** - Chinese (Cantonese, Mandarin), Filipino (Tagalog), Russian, Spanish, and Vietnamese and American Sign Language. These languages are required for all services.
- 1.2. Frequently Used Languages** – Korean, French, Arabic, Japanese, and Mayan. These languages are required for all services.
- 1.3. Culturally Competent Services** - The ability of an organization to provide linguistically appropriate services for customers and residents who are unable to speak English, uncomfortable speaking English, for whom English is not a first language, or for whom English is not clearly understood, and further that the services are rendered in a courteous manner that is respectful of the social and cultural traditions, empathetic to the language barriers and past discriminatory treatment encountered by LEP when attempting to access services, and finally, attentive to the special needs of immigrants facing challenges of acculturating to new social, cultural and linguistic environment.
- 1.4. Language Access Ordinance** - Chapter 91 of the City’s Administrative Code.
- 1.5. Standard Hours** - Mondays through Fridays from 8:00 am to 6:00 P.M.
- 1.6. Non-Standard Hours** - All other times excluding Standard Hours.
- 1.7. Continuously Available Services** - Services provided by contractor shall be available upon request 24 hours a day, seven days a week, 365 days a year including all holidays.
- 1.8. Participating City Agency** - Any City department, agency, division, commission and or task force electing to receive services under this Agreement.

**SECTION 2 – OVERVIEW**

- 2.1 Purpose** - The purpose of this Master Contract is to purchase “as needed” Language Services, which include continuous, unscheduled, 24-hour, 365 days per year, telephonic language interpretation services, and video remote interpretation (VRI) services, for any City department, agency, division, commission and or task force, to enable the City and County to improve its ability to provide “culturally competent” services to LEP residents, clients, visitors and members of the general public who require immediate interpreter assistance.

**SECTION 3 - GENERAL TELEPHONIC AND VIDEO REMOTE INTERPRETATION SERVICES REQUIREMENTS**

- 3.1 Contractor shall provide a single, toll-free 800 number for all Participating City Agency Telephonic Language Interpretation Services in identified Core Languages and Frequently Used Languages, available 24 hours a day, 365 days of the year on an as-needed basis for the life of the contract, including any contract extensions. Interpreters must respond to calls within the average connect times and interpreters must be available as specified in section 7.10 and section 7.11 below.
- 3.2 Contractor shall provide Conference-calling services and capabilities.
- 3.3 The Contractor shall provide all language interpretation services for Core Languages, Frequently Used Languages, and Additional Languages requested by city agencies that enroll at a later date and any additional languages the contractor may choose to include in addition to Core Languages at the per minute rates as provided in Appendix B.
- 3.4 Prior to commencing performance, Contractor shall provide written prioritization of telephonic and video conferencing calls, such as hotline, bail hearings, or other emergency or time-critical calls in the manner approved by the Office of Civic Engagement & Immigrant Affairs.
- 3.5 Contractor shall not require any Participating City Agency to purchase or obtain a specific type of equipment to access language interpretation services.
- 3.6 **Reserving A Language Interpreter** - Contractor shall ensure that reserving language interpretation services for specific times is continuously available and accessible to all Participating City Agencies, 24-hours a day, seven days a week and 365 days a year, including holidays in the core languages within thirty (30) minutes of any Participating City Agency’s request.
- 3.7 **Additional Languages** - In addition to the Core and Frequently Used Languages listed in Section 1 the Contractor shall provide telephonic language interpretation services for the Additional Languages listed below. The additional languages below shall be continuously available.

Acholi	Chaldean	Fulani	Inuktitut	Liberian Pidgin English	Norwegian	Shona	Ukrainian
Afar	Chamorro	Fuzhou	Italian	Lingala	Nuer	Sichuan Yi	Urdu
Afrikaans	Chaochow	Ga	Jakartanese	Lithuanian	Nupe	Sicilian	Uyghur
Akan	Chin Falam	Gaddang	Jamaican Patois	Luba-Kasai	Nyanja	Sinhala	Uzbek
Akateko	Chin Hakha	Gaelic-Irish	Japanese	Luganda	Nyoro	Slovak	Vietnamese

Albanian	Chin Mara	Gaelic-Scottish	Jarai	Luo	Ojibway	Slovene	Visayan
Amharic	Chin Matu	Garre	Javanese	Maay	Oromo	Soga	Welsh
Anuak	Chin Senthang	Gen	Jingpho	Macedonian	Pampang	Somali	Wodaabe
Apache	Chin Tedim	Georgian	Jinyu	Malay	Papiamento	Soninke	Wolof
Arabic	Chipewyan	German	Juba Arabic	Malayalam	Pashto	Sorani	Yemeni
Armenian	Chuukese	German Penn. Dutch	Jula	Maltese	Plautdietsch	Spanish	Arabic
Assyrian	Cree	Gheg	Kaba	Mam	Pohnpeian	Sudanese	Yiddish
Azerbaijani	Croatian	Gokana	Kamba	Mandarin	Polish	Arabic	Yoruba
Bahasa	Czech	Greek	Kanjobal	Mandinka	Portuguese	Sunda	Yunnanese
Bahdini	Danish	Gujarati	Kannada	Maninka	Portuguese Brazilian	Susu	Zapoteco
Bahnar	Dari	Gulay	Karen	Manobo	Portuguese Cape Verdean	Swahili	Zarma
Bajuni	Dewoin	Gurani	Kashmiri	Marathi	Pugliese	Swedish	Zo
Bambara	Dinka	Haitian Creole	Kayah	Marka	Pulaar	Sylheti	Zyphe
Bantu	Duala	Hakka	Kazakh	Marshallese	Punjabi	Tagalog	Ukrainian
Barese	Dutch	China Hakka	Kham	Masalit	Putian	Taiwanese	
Basque	Dzongkha	Taiwan	Khana	Mbay	Quechua	Tajik	
Bassa	Edo	Hassaniyya	Khmer	Mien	Quichua	Tamil	
Belorussian	Ekegusii	Hausa	K'iché	Mirpuri	Rade	Telugu	
Bemba	Estonian	Hawaiian	Kikuyu	Mixteco	Rakhine	Thai	
Benaadir	Ewe	Hebrew	Kimiri	Mizo	Rohingya	Tibetan	
Bengali	Farsi	Hiligaynon	Koho	Mnong	Romanian	Tigré	
Berber	Fijian	Hindi	Korean	Mongolian	Rundi	Tigrigna	
Bosnian	Fijian	Hindko	Krahn	Moroccan Arabic	Russian	Toishanese	
Bravanese	Hindi	Hmong	Krio	Mortlockese	Rwanda	Tongan	
Bulgarian	Finnish	Hunanese	Kunama	Napoletano	Samoan	Tooro	
Burmese	Flemish	Hungarian	Kurmanji	Navajo	Sango	Trique	
Cantonese	French	Icelandic	Kyrgyz	Nepali	Seraiki	Turkish	
Catalan	French Canadian	Igbo/locano	Laotian	Ngambay	Serbian	Turkmen	
Cebuano	Fukienese	Indonesian	Latvian	Nigerian Pidgin	Shanghainese	Tzotzil	

**3.8** Additional languages and dialects that are not continuously available may also be requested by a Participating City Agency Departments. Contractor shall use best efforts to obtain such services in a timely manner as specified by the Participating City Agency.

**3.9 User Registration** - Prior to commencing performance, the Contractor shall sign up and provide a unique user ID to a Participating City Agency.

**3.10 Single Use Dual Handset Telephones** - Contractor shall provide dual-handset telephones free of charge in quantities specified by each Participating City Agency and assess a rental fee at rates specified in Appendix B. Single use dual handset phones shall only connect to the Contractor to provide language interpretation services for City employees and their clients and will not have the capability of receiving calls or dialing out. Contractor shall have the option of logo placement on its dual handset phones.



- 3.11 Multi Use Dual Handset Telephones** - Each Participating City Agency may request multi-use dual handsets that not only have the capability to connect to the language interpretation services but also be equipped with standard telephone function of receiving calls and dialing out. Contractor shall provide at least one multi-use dual handset telephone free of charge to each Participating City Agency. Contractor shall have the option of logo placement on its dual handset phones. Additional dedicated handsets may be sold and/or rented to a Participating City Agency at the rates as set forth in Appendix B.
- 3.12 Multi Service Device Connectivity** - The Contractor's services shall be available and accessible through multiple multimedia devices. Those devices shall include but not limited to the following: smart-phones, iPhones®, iPads, tablets, iOS devices, Android™ devices, videophones and polyphones used by a subscribing Participating City Agency. To maintain compliance with privacy regulations, all connections through InSight are encrypted end to end. The underlying technology uses Web Real-Time Communication (WebRTC) for video calls and secure VoIP for audio calls.
- 3.13 Video Remote Connectivity** - The Contractor's services shall be available and accessible through multiple multimedia devices. Those devices shall include but not limited to the following: smart-phones, iPhones®, iPads, tablets, iOS devices, Android™ devices, videophones and polyphones used by a subscribing Participating City Agency. In addition, connectivity should be available through Cisco DX-650 model for video phone, Cisco Call Manager & UCC Express. City and County shall have the choice to maintain control of any in-house operated routing call systems call routing system and send overflow video call traffic to LanguageLine. To maintain compliance with privacy regulations, all connections through InSight are encrypted end to end. The underlying technology uses Web Real-Time Communication (WebRTC) for video calls and secure VoIP for audio calls.
- 3.14 Customer Support Tools** - Upon enrollment of services, the contractor shall provide, at no cost to the City, brochures, pamphlets, posters, laminated walled cards, and any other customer service support tools that explain the services provided and allow a client that speaks a foreign language to identify the language they speak by pointing to the appropriate language on the written materials. The written materials should include all Core Languages and Frequently Used Languages. Each Participating City Agency shall have option of selecting customer support tools and educational materials most appropriate for their department. The Contractor shall be responsible for delivering of any and all customer support tools and educational materials to the Participating City Agency in a timely manner.
- 3.15 Instructional Materials** - Prior to commencement of service, the Contractor shall provide a user manual or instructional materials (in electronic and hard copy format) to assist end users in accessing the services that will be provided under this contract. User manual or instructional materials shall explain, in plain language, how to access language

interpretation services through a department's access code, instructions for reserving an interpreter for a specific time, complaint resolution protocols, business continuity protocols and other pertinent information.

## **SECTION 4 – ACCOUNT MANAGEMENT**

- 4.1 Required Meetings with City** - Contractor shall schedule at least four (4) meetings with the Executive Director-OCEIA. Meetings may include the City Administrator and lead department representatives. The first meeting should be scheduled no later than eight (8) weeks from date of commencement of work. At this meeting, the City will provide Contractor with feedback and will note any deficiencies in contract performance and provide Contractor with an opportunity to address and correct these areas. Additional quality assurance meetings may be required, depending upon Contractor's performance.
- 4.2 Dedicated Account Manager** - The contractor shall assign a single Account Manager through whom all ongoing billing, support and maintenance, media, publicity and outreach activities will be coordinated. A dedicated Account Manager shall be available during business hours, Monday through Friday, 8:00 A.M. to 5:00 P.M. Prior to commencing performance, the Contractor shall submit the dedicated Account Manager's name and contact including telephone number, facsimile number, and e-mail address. The Account Manager will be completely responsible for all billing, support and maintenance for services awarded.
- 4.3 Escalation Procedures** - Contractor shall provide a backup contact in the event the Account Manager is unavailable or is unable to address issues. Prior to commencing performance, the Contractor shall provide the backup information which must include the names, titles, telephone numbers, facsimile numbers, e-mail addresses and mailing addresses for each backup contact. The Contractor is responsible to ensure this information is kept current throughout the contract term. The Contractor's escalation procedures shall obligate the contractor to respond to department complaints within 24-hours of receiving the complaint.
- 4.4 Project Manager as Substitute** - The Contractor shall provide a dedicated Project Manager, for each of the Language Services provided, who shall be completely responsible for ensuring that telephonic interpretation, video conferencing, and translation services are rolled out properly to all Participating City Agencies. Further during the roll out period, the Project Manager shall ensure that each Participating City Agency can properly access such services, is provided with adequate customer support tools, can process customer complaints, and be familiar with Contractor's business continuity protocols (i.e., during natural disasters or power failure). The Project Manager shall also be available and responsible for interpretation services availability at all times during the cutover and during the acceptance period. The City shall not accept multiple managers or multiple positions of responsibility for services.

- 4.5 Contractor Shall Identify Key Personnel** - Prior to commencing performance, Contractor shall identify key personal to be assigned to the project including the contractor's capacity to provide staff sufficient to meet the interpreting service needs of any City Agency, summarizing their qualifications and relevant experience.
- 4.6 Reporting Approval** - The Contractor shall provide, to OCEIA, monthly Language Services summary reports detailing each Participating City Agency with summary details specified in Reporting and Billing Procedures section. Prior to commencing service, Contractor shall provide a sample, for review and approval of the City, of the invoice that will be issued on a monthly basis.
- 4.7 Tailored Reports** - Contractor shall make available tailored data reports at the request of the Office of Civic Engagement & Immigrant Affairs (OCEIA) and individual departments.

## **SECTION 5 – CUSTOMER COMPLAINT REPORTING**

- 5.1** The contractor shall provide a monthly summary of complaint reports about language interpretation services to OCEIA and the Participating City Agency, which shall include, but not be limited to:
- 5.1.1** Participating City Agency, LanguageLine employee name and employee location
  - 5.1.2** Date of complaint
  - 5.1.3** Interpreter name or unique identification number
  - 5.1.4** Number of complaints (per interpreter)
  - 5.1.5** First and last name of person being interpreted
  - 5.1.6** Case number (if court hearing)
  - 5.1.7** Language and/or dialect interpreted
  - 5.1.8** Detailed description of complaint
  - 5.1.9** Person registering the complaint and contact information
  - 5.1.10** Name of Contractor's representative resolving complaint
  - 5.1.11** Details of complaint resolution
  - 5.1.12** If complaint was not resolved, reasons for being unresolved
- 5.2 Complaint Resolution Protocols** –Within one (1) week of contract commencement, the Contractor shall submit complaint resolution protocol which shall be attached to this Agreement as Appendix C.
- 5.3 Manner of Accepting Customer Complaints** - The Contractor shall accept customer complaints via telephone, fax, email, Web, and postal mail.
- 5.4** The Contractor shall ensure that any user of telephonic language interpretation services will be able to reach the Project Manager or Account Manager to file a complaint while

still on-line during an interpreted call or at another time via email to [civic.engagement@sfgov.org](mailto:civic.engagement@sfgov.org), whichever is more convenient for the person placing the call.

## **SECTION 6 – START UP**

- 6.1 Contract Start-Up** - Prior to commencing service, the Contractor shall provide updated written materials, electronic and/or web tools to describe the service and how to access it which shall include at minimum: contact name, telephone number, mailing address and email address. This information will be distributed by the Contractor to a Participating City Agency.
- 6.2 Training** - Working with OCEIA, the Contractor shall provide a training program for designated City department directors, deputy directors or other city personnel in the use of the Contractor's services to enable them to train all other City staff in how to access telephonic interpretation, video remote interpretation, and translation services. The training program shall include explanation of billings protocols, customer complaint resolution procedures, protocols for updating the Glossary of Common Use Terms, protocols for reserving an interpreter and contact information for Contractor's dedicated account manager and/or project manager. Contractor shall provide OCEIA with notice when a new city agency signs up for a service under this contract. The scheduling of such trainings shall be made by arrangement between the Contractor, OCEIA and City department(s) within the first week of enrollment of each City agency.
- 6.3 User Registration List** - The contractor shall maintain a list of all registered users under this contract. This list shall be maintained in a commonly available electronic format, such as MS Access or MS Excel. This list shall include the name of the Participating City Agency, name of authorized personnel, mailing address, phone number(s) and email address(s). This list shall be updated as needed and be provided monthly, emailed to OCEIA at [civic.engagement@sfgov.org](mailto:civic.engagement@sfgov.org).

## **SECTION 7 – GENERAL REQUIREMENTS FOR LANGUAGE INTERPRETERS**

- 7.1** Contractor shall certify to the City that each of its staff members has attended and passed all requirements of contractor's training program prior to the individual being assigned to provide language interpretation for the City. Interpreters shall be trained in and follow confidentiality and ethics guidelines. All new staff shall attend and pass contractor's training program. Contractor shall regularly provide updates of training to existing staff on an as-needed basis.
- 7.2 Glossary of Terms Unique to San Francisco Government Services** - The Contractor shall train its language interpreters in terminology specific to government services in general and to the City of San Francisco. Participating City Agencies shall submit a

glossary of technical and common usage terms that are commonly used by LEP populations in San Francisco for use in Contractor's training curriculum for its language interpreters.

**7.3 Specialized Training** - Contractor shall integrate general knowledge of terms and concepts particular to City Agencies within its training curriculum for language interpretation and translators operators. The City shall make available, if the Contractor requests, specialized training by City agencies versed in the subject areas listed below. The Contractor shall train its language interpreters to have basic knowledge of the terms, concepts and ability to handle calls in the following subject areas:

**7.3.1** Building permits and appeals process

**7.3.2** Business license regulation and permits

**7.3.3** City government-related terminology

**7.3.4** Cultural competency and sensitivity

**7.3.5** Customer service skills

**7.3.6** Domestic violence response

**7.3.7** Emergency preparedness and disaster relief

**7.3.8** Immigrant rights issues

**7.3.9** Information technology and telecommunications terminology

**7.3.10** Law enforcement terms

**7.3.11** Legal terms

**7.3.12** Medical and Mental Health terms

**7.3.13** Sanctuary City policy

**7.3.14** Social services terminology

**7.3.15** Substance Abuse

**7.3.16** Tax and Real Estate terminology

**7.3.17** Victim Assistance skills

**7.3.18** LGBTQ terminology (lesbian, gay, bisexual, transgender, and queer or questioning)

**7.4** To ensure that all language interpretation operators meet high performance metrics and customer service standards, ninety five percent (95%) or more of the Contractor's language interpreter operators and translators shall be employees of the contractor and required to:

**7.4.1** Undergo and satisfactorily pass all current and on-going training programs required of its language interpreters.

**7.4.2** Possess at least 40 hour of interpretation training and 40 hours interpreting experience.

**7.4.3** Certified interpreters by the Registry for Interpreters for the Deaf or any other nationally recognized organization.

- 7.4.4 Certified interpreters by the State of California and/or American Standards for Testing and Materials.
- 7.4.5 Submit and satisfactorily pass all quality control performance reviews.
- 7.4.6 Cannot engage in outside work while scheduled to perform language interpretation services at their designated shifts.
- 7.4.7 Exclusively available to Users under this Agreement during their scheduled work shift.
- 7.5 Each subcontractor shall be required to conform to these availability requirements and sign HIPAA and Privacy Act agreements.
- 7.6 **Confidentiality** - All language interpreter operators must be trained in and required to conform to HIPAA and Privacy Act conditions.
- 7.7 **Medical and Legal Interpreter Certification** - Language interpreters shall be:
  - 7.7.1 Certified through the California Healthcare Interpreters Association (CHIA), National Council on Interpreting in Healthcare (NCIHC) or an equivalent certifying body recognized by medical professionals.
  - 7.7.2 If performing medical interpretations, interpreter must possess at least 180 hours of medical interpretation training and 100 hours of medical interpreting experience or be certified by the National Board of Certification by Medical Examiners, or a recognized university or college certificate, or by the state of California, or certified by the Registry for Interpreters for the Deaf or any other nationally recognized certification.
  - 7.7.3 If performing legal interpretations, interpreter must be certified through a Court interpreter certification program that is recognized and accepted by the California Court system.
- 7.8 **Language Fluency Certification** - All language interpreters utilized by the Contractor shall be certified through the State of California or through the American Standards for Testing and Materials (ASTM).
- 7.9 **Emergency Situations** - Contractor shall institute training protocols for telephone interpreters when providing services to assist clients in emergency situations such as threats to property and life, reporting emergencies and/or transferring calls to 911.

**7.10 Operational Metrics** - All interpreters must be able to connect via phone or video remote to the Participating City Agency within the Average Connect Time set forth below. The service provided must be available 24 hours a day, 365 days of the year for the life of the contract, including any contract extensions. The Average Connect Time (defined as the time it takes Contractor to connect with an interpreter after a Participating City Agency has provided customer identifying information) for response is to be calculated monthly and provided in the monthly reports. Overall response rate must be 95% or greater of all calls monthly. These metrics shall be emailed to OCEIA at [civic.engagement@sfgov.org](mailto:civic.engagement@sfgov.org) on a monthly basis and upon request.

**Average Connect Times**

<b>Tier 1</b>	<b>Language(s):</b>	<b>Connect Time:</b>
	Spanish	20 seconds or less
<b>Tier 2</b>	<b>Languages(s):</b>	<b>Connect Time:</b>
	Cantonese	30 seconds or less
	Toishanese	
	Mandarin	
	Arabic	
	French	
	Korean	
	Mongolian	
	Portuguese	
	Russian	
	Tagalog	
	Vietnamese	
<b>Tier 3</b>	<b>Language(s):</b>	<b>Connect Time:</b>
	All other supported languages	45 seconds or less

**7.11 Service Fulfillment** – All calls placed to Contractor shall be 99.8% of all service request in each language group below. Interpreter not available at the time of request should occur less than 20 times out of 1,000 calls. These metrics shall be emailed to OCEIA at [civic.engagement@sfgov.org](mailto:civic.engagement@sfgov.org) on a monthly basis and upon request.

<b>Tier 1</b>	<b>Language(s):</b>	<b>Availability (interpreter not available 20 times out of 1,000 calls)</b>
	Spanish	
	Cantonese	
	Mandarin	
	Arabic	
	French	
	Korean	
	Tigrinya	
	Mongolian	
	Russian	
	Tagalog	
	Vietnamese	

<b>Tier 2</b>	<b>Language(s):</b>	<b>Availability (interpreter not available 30 times out of 1,000 calls)</b>
	All other supported languages	

Interpreter Quality – Contractor will assign highest level of interpreters to San Francisco City and county First Responders and medical accounts.

**SECTION 8 – GENERAL BUSINESS CONTINUITY REQUIREMENTS**

- 8.1 Emergency Preparedness and Business Continuity Plan** - Prior to commencing performance the Contractor shall provide to the City an emergency disaster plan which will enable continued 24-hour access to language interpretation services during a natural disaster, power outage, equipment failure or other unforeseen events.
- 8.2 Technology Recovery Plan** - Prior to commencing performance the Contractor shall provide to the City a technology recovery strategy plan which will enable continued 24-hour access to language interpretation services during a natural disaster, power outage, equipment failure or other unforeseen events. The technology recovery strategy plan shall explain the basic operations of the call center, telephonic equipment, computer hardware, network connectivity and other technology that enables continued availability of services.
- 8.3** The Emergency Disaster and Business Continuity Plan and Technology Recovery Strategy Plan may be submitted separately and should be entitled “Emergency Disaster, Business Continuity and Technology Recovery Strategy Plan.”



## **SECTION 9 – REPORTING AND BILLING REQUIREMENTS**

- 9.1** Under no circumstances shall the amount paid under this Agreement exceed the amount set forth in Section 5 of this Agreement.
- 9.2** Telephone language interpretation services will be billed in 60 (sixty) second or one (1) minute increments during both standard hours and non-standard hours.
- 9.3** Video Remote Interpretation services will be billed in 60 (sixty) second or one (1) minute increments during both standard hours and non-standard hours.
- 9.4** No additional fees including but not limited to administrative fees, invoices, reports, travel time or mileage will be paid for services under this contract.
- 9.5** The Contractor may not charge a Participating City Agency any fee for the cancellation or non-usage of services.
- 9.6** No additional fees or reimburse for costs will be made for attendance at meetings including but not limited to any travel time or mileage incurred by Contractor for scheduled quarterly meetings or for any meetings relating to performance issues.
- 9.7** Contractor shall set up separate accounts with each Participating City Agency, billable monthly to that Participating City Agency each with separate access codes. It is estimated that approximately 120 access codes will be required if all departments, commissions, and task forces were to be enrolled.
- 9.8** The Contractor shall submit copies of all invoices and other required reports to OCEIA and the Participating City Agency monthly, within 15 days of the last of the month being reported and provide all reports electronically in MS Excel (or any other acceptable electronic software such as Access, ASCII, MS Word) and on (1) hard copy.
- 9.9** The Contractor shall provide monthly usage telephone interpretation summary reports to the Participating City Agency with summary details which shall include, but are not limited to:
  - 9.9.1** Participating City Agency, LanguageLine Employee Name and Employee Location.
  - 9.9.2** Date of call.
  - 9.9.3** Time of call.
  - 9.9.4** Billing month.
  - 9.9.5** Interpreter name or Unique Identification number.

- 9.9.6** Originating telephone number(s).
- 9.9.7** First and Last Name of Person Being Interpreted.
- 9.9.8** Case Number (for court hearing).
- 9.9.9** Language and/or dialect requested.
- 9.9.10** Total conversation minutes with break down by duration of Standard hours and Non-Standard Hours.
- 9.9.11** Total cost for conversation minutes per call with break down by duration of Standard hours and Non-Standard Hours.
- 9.9.12** Total time required to connect Participating City Agency with appropriate interpreter which shall be measured to the nearest second and shall commence when the call is received at the Contractor's switchboard and ends when the appropriate interpreter is on the line and prepared to begin interpreting.
- 9.9.13** Conference call phone number(s) out-dialed by user (i.e. interpreter, judge, Participating City Agency).
- 9.9.14** Total volume of calls handled.
- 9.9.15** Total cost per call.
- 9.9.16** Total number of blocked calls.
- 9.9.17** Requests for language interpretation that could not be fulfilled and identified by the language.
- 9.9.18** The reason that for a request for interpretation could not be fulfilled.
- 9.10** Contractor shall submit written reports in formats and content as requested by the OCEIA Executive Director. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.
- 9.11** In performing the services provided for in this Agreement, Contractor's liaison with the Office Civic Engagement & Immigrant Affairs will be Isis Fernandez Sykes.

**Appendix B  
Fee Schedule**

1. Under no circumstances shall the amount billed by Contractor or paid by City exceed the amount set forth in Section 5 Compensation of the Agreement. City shall pay only the per minute and monthly rental charges set forth below. No expenses for meetings, travel, administration or any other expense cost shall be billed by Contractor or paid by City.
2. **Rates** - The Contractor shall charge a uniform rate for all services provided to any entity of the City and County of San Francisco. The billing rate shall be explained to each Participating City Agency and each newly enrolled department as part of the training program.
3. **Base rate** - the amount charged per minute for Core Languages, Frequently Used, and Additional Languages.
4. **Dual Hand Set Rental and Maintenance Fee** - Contractor will provide 200 dual handsets complementary to the City. After 200 phones, the rental fee per phone will be \$3.00 or \$60.00 to purchase a dual handset phone. The rental fee shall cover any repair and replacement charges and operational troubleshooting.
5. The rate charged for use of telephonic language interpretation services shall be the same when access to Contractor, is accomplished via dual-hand set phones rented by Contractor, dedicated cell phones or regular phones, tablets utilized by City agencies.
6. **Telephonic Interpretation** – Contractor shall offer telephonic interpretation services to Participating City Agencies in the Core, Frequently Used, and Additional Languages. Usage shall be billed in one-minute increments as described below.

<b>PER MINUTE RATE</b>	<b>\$0.72</b>	<b>ALL LANGUAGES</b>
------------------------	---------------	----------------------

7. **Video Remote Interpreting** - Contractor shall offer video remote interpreting to Participating City Agencies in American Sign Language (ASL), Chinese (Cantonese, Mandarin), Filipino (Tagalog), and Spanish. Usage shall be billed in one-minute increments.

<b>VIDEO REMOTE</b>	<b>VIDEO REMOTE RATES PER MINUTE</b>
American Sign Language (ASL)	\$2.00
Cantonese, Filipino (Tagalog), Spanish, Mandarin, Albanian, Arabic, Armenian, Bengali, Burmese, Farsi, French, German, Greek, Haitian Creole, Hebrew, Hindi, Hmong, Italian, Japanese, Karen, Khmer, Korean, Laotian, Lithuanian, Malay, Nepali, Polish, Portuguese, Punjabi, Romanian, Russian, Somali, Thai, Turkish and Vietnamese	\$1.25
All Other Languages	\$1.25

8. **Direct Response Service** – Contractor shall bill Direct Response Service as follows:

<b>DIRECT RESPONSE FEES</b>
Set-up Fee per language Recording \$0
Set-up Fee per each toll-free line \$0
\$0.82 Per minute (flat rate)

9. There shall be no set up or monthly minimum charges.

10. There shall be no charge for standard toll-free access to Contractor.
11. Per minute rates do not include third party dial-out calls, for example, when a domestic call must be placed by Language Line Solutions, Inc. to accommodate Customer's request. Each domestic third-party dial out call is billed at \$1.14/call.
12. **Credits Against Cost** - In the event that the Operational Metrics and Service Fulfillment as described in Section 7.0 of Appendix A are not met by Contractor, Contractor shall provide a 3% credit against City's total billing volume of the month or months in which these metrics are not met. The credit shall be calculated at City's total monthly volume for the specific month(s) in which Contractor failed to meet the Operational Metrics or Service Fulfillment. The Office of Civic Engagement shall determine to which account the credit shall be applied to.

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

**Appendix C  
Business Associate Agreement**

This Business Associate Agreement (“BAA”) supplements and is made a part of the agreement by and between the City and County of San Francisco, the Covered Entity (“CE”), and Language Line Solutions, Inc. (“Contractor”), the Business Associate (“BA”), dated 7/26/2018 (TC #99300) (“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.

**RECITALS**

A. CE, by and through the City departments that request services under the Agreement, 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 and this BAA, 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 an agreement 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:

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

**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.

**b. Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Part 164, Subpart 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.

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

**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 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. 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

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.

**b. 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 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)].

**c. 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)].

**d. 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



**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

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.

**e. 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, 164.314 164.316, 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).

**f. 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.

**g. 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 [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.

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

**h. 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.

**i. 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, 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)].

**j. 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.

**k. 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.

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

**m. 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

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

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)]

**n. 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 subcontractor or agent's obligations under the Agreement 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

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

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 or 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.**

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 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.

Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020

---

**Appendix D**

**Confidential Information Nondisclosure Agreement**

*(To be signed by every employee that will work on the Requesting Department's project, and provided to each Requesting Department, prior to project initiation)*

This Confidential Information Nondisclosure Agreement (the "Agreement") is made as of July 26, 2018 (the "Effective Date") by and between Language Line Solutions, Inc. ("Recipient") and the City and County of San Francisco ("City") (hereinafter jointly referred to as the "Parties").

WHEREAS, City has contracted with Recipient to provide services to City that include telephonic and video interpretation services under TC 99300 "Language Access Services" ("Services");

WHEREAS, In order to perform the required Services, Recipient may need access to City Confidential Information; and

WHEREAS, City is willing to provide Recipient with City Confidential Information for such purpose provided that City has reasonable assurances that Recipient will use the Confidential Information only in connection with providing the required Services and will not disclose the Confidential Information to third parties;

NOW therefore, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration the sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Definition of Confidential Information.** "Confidential Information" includes any oral, written, graphic or machine readable information, technical data or know-how, regarding the City's data network operations, infrastructure, and operations; personal information; medical information; and any other information as specified by individual departments.

**2. Nondisclosure of Confidential Information.**

(a) Recipient agrees not to use Confidential Information disclosed to it by City for his or her own use or for any purpose other than to perform the required Services or to disclose the Confidential Information to any third parties. Recipient agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of City Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized to have any such information. Such measures shall include the highest degree of care that Recipient utilizes to protect its own Confidential Information. Recipient agrees to notify the City in writing of any misuse or misappropriation of Confidential Information of the disclosing party, which may come to the receiving party's attention.

(b) Notwithstanding the above, Recipient shall not have liability to City with regard to any City Confidential Information that: (i) at the time of disclosure, is available to the general

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

public; (ii) at a later date, becomes available to the general public through no fault of Recipient, and then only after such later date; (iii) is disclosed to Recipient without restriction on disclosure by a third party who had the lawful right to disclose such information; (iv) was independently developed by Recipient without the use of any Confidential Information; or (v) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body.

**3. Publicity.** Recipient will not, without prior consent of the other party, disclose to any other person, the fact that City Confidential Information has been disclosed under this agreement, that discussions or negotiations are taking place between the parties, or any of the terms conditions, status or other facts with respect thereto, except as required by law and then only with prior notice as soon as possible to City.

**4. Return of the City's Confidential Information.** Any materials or documents that have been furnished by City to Recipient in connection with the Services will be promptly returned by Recipient, accompanied by all copies of such documentation or certification of destruction, within (10) days after: (a) the Services are no longer being provided; (b) a written request from City; or (c) the end of the Term of the Agreement.

**5. Term.** This Agreement shall be effective from the Effective Date and shall continue for two (2) years.

**6. Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the Parties agree to renegotiate such provision in good faith. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then: (a) such provision shall be excluded from this Agreement; (b) the balance of the Agreement shall be interpreted as if such provision were so excluded; and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

**7. Remedies.** It is understood and agreed that money damages would not be a sufficient remedy for any breach or threatened breach of this Agreement and the City shall be entitled to seek injunctive relief (preliminary or otherwise) as a remedy for any such breach or threatened breach without the necessity of proving actual damages. Such remedy shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or equity.

**8. Governing Law; Jurisdiction.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the Parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California. Each of the Parties hereto consents to the exclusive jurisdiction and venue of the courts of San Francisco, California.

**9. Amendment and Waiver.** Any term of this Agreement may be amended with the written consent of the Parties. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns. Failure to

**Request for Proposal for  
Language Access Services  
For the Term August 1, 2018 through July 31, 2020**

---

enforce any provision of this Agreement by a Party shall not constitute a waiver of any term hereof by such party.


**10. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**11. Entire Agreement.** This Agreement embodies the entire understanding between the Parties respecting the subject matter of this Agreement and supersedes any and all prior negotiations, correspondence, understandings and agreements between the parties respecting the use and disclosure of the City Confidential Information. This Agreement has been negotiated by the Parties and their respective attorneys, and the language of this Agreement shall not be construed for or against either party. The headings are provided for the purpose of reference and convenience and are not intend to affect the meaning of the contents or scope of this Agreement.

**12. Notices.** All notices under this Agreement shall be deemed to have been duly given upon the mailing of the notice, postpaid, to the Party entitled to such notice at the address set forth below.

The Parties have executed this Confidential Information Nondisclosure Agreement as of the date first above written.

**RECIPIENT LANGUAGE LINE SOLUTIONS**  
 Signature:   
 Name: Scott Merritt  
 (print)  
 Title: Vice President of Operations  
 Address: 1 Lower Ragsdale Drive, Bldg 2  
 Monterey, CA 93940

**CITY AND COUNTY OF SAN FRANCISCO**  
 Signature:   
 Name: Adrienne Pan  
 (print)  
 Title: Executive Director  
 Address: 50 Van Ness Avenup  
SF CA 94102