

**CITY AND COUNTY OF SAN FRANCISCO
HUMAN SERVICES AGENCY**

GRANT AGREEMENT

between

CITY AND COUNTY OF SAN FRANCISCO

and

INSTITUTE ON AGING
Grant ID: 1000028610

THIS GRANT AGREEMENT (“Agreement”) is made as of **July 1, 2023**, in the City and County of San Francisco, State of California, by and between **INSTITUTE ON AGING, 3575 GEARY BOULEVARD SAN FRANCISCO CA 94118** (“Grantee”) and the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (“City”) acting by and through the **Human Services Agency** (“Department”),

RECITALS

WHEREAS, the Agreement was competitively procured as required through Request for Proposals #1050, which was competitively bid on January 9, 2023, and is consistent therewith; and

WHEREAS, Grantee has applied to the Department for a grant to fund the matters set forth in a grant plan; and summarized briefly as follows:

Community Living Fund program provides case management and purchase of services for older adults and adults with disabilities who are currently in a skilled nursing facility and are ready to live in the community, or those at risk of being institutionalized. ; and

WHEREAS, the City’s Board of Supervisors approved this Agreement by Resolution #305-23 on June 16, 2023; and

WHEREAS, City desires to provide such a grant on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Specific Terms. Unless the context otherwise requires, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

- (a) “**ADA**” shall mean the Americans with Disabilities Act (including all rules and regulations thereunder) and all other applicable federal, state and local disability rights legislation, as the same may be amended, modified or supplemented from time to time.
- (b) “**Application Documents**” shall mean collectively: (i) the grant application submitted by Grantee, including all exhibits, schedules, appendices and attachments thereto; (ii) all documents, correspondence and other written materials submitted with respect to the grant application; and (iii) all amendments, modifications or supplements to any of the foregoing approved in writing by City.
- (c) “**Budget**” shall mean the budget attached hereto as part of Appendix B and B1.
- (d) “**Charter**” shall mean the Charter of City.
- (e) “**Contractor**” shall have the meaning as “Grantee” if used in this Agreement, as certain City contracting requirements also apply to grants of the City of San Francisco.
- (f) “**Controller**” shall mean the Controller of City.
- (g) “**Eligible Expenses**” shall have the meaning set forth in Appendix A.
- (h) “**Event of Default**” shall have the meaning set forth in Section 11.1.
- (i) “**Fiscal Quarter**” shall mean each period of three (3) calendar months commencing on July 1, October 1, January 1 and April 1, respectively.
- (j) “**Fiscal Year**” shall mean each period of twelve (12) calendar months commencing on July 1 and ending on June 30 during which all or any portion of this Agreement is in effect.
- (k) “**Funding Request**” shall have the meaning set forth in Section 5.3(a).
- (l) “**Grant**” shall mean this Agreement.
- (m) “**Grant Funds**” shall mean any and all funds allocated or disbursed to Grantee under this Agreement.
- (n) “**Grant Plan**” shall have the meaning set forth in Appendix A, B, and B1.
- (o) “**Indemnified Parties**” shall mean: (i) City, including the Department and all commissions, departments, agencies and other subdivisions of City; (ii) City's elected officials, directors, officers, employees, agents, successors and assigns; and (iii) all persons or entities acting on behalf of any of the foregoing.
- (p) “**Losses**” shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, fees, expenses and costs of whatsoever kind and nature (including legal fees and

expenses and costs of investigation, of prosecuting or defending any Loss described above) whether or not such Loss be founded or unfounded, of whatsoever kind and nature.

(q) “**Publication**” shall mean any report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, web page, audio or visual material or other communication for public dissemination, which relates to all or any portion of the Grant Plan or is paid for in whole or in part using Grant Funds.

1.2 Additional Terms. The terms “as directed,” “as required” or “as permitted” and similar terms shall refer to the direction, requirement, or permission of the Department. The terms “sufficient,” “necessary” or “proper” and similar terms shall mean sufficient, necessary or proper in the sole judgment of the Department. The terms “approval,” “acceptable” or “satisfactory” or similar terms shall mean approved by, or acceptable to, or satisfactory to the Department. The terms “include,” “included” or “including” and similar terms shall be deemed to be followed by the words “without limitation”. The use of the term “subcontractor,” “successor” or “assign” herein refers only to a subcontractor (“subgrantee”), successor or assign expressly permitted under Article 13.

1.3 References to this Agreement. References to this Agreement include: (a) any and all appendices, exhibits, schedules, attachments hereto; (b) any and all statutes, ordinances, regulations or other documents expressly incorporated by reference herein; and (c) any and all amendments, modifications or supplements hereto made in accordance with Section 17.2. References to articles, sections, subsections or appendices refer to articles, sections or subsections of or appendices to this Agreement, unless otherwise expressly stated. Terms such as “hereunder,” herein or “hereto” refer to this Agreement as a whole.

ARTICLE 2 APPROPRIATION AND CERTIFICATION OF GRANT FUNDS; LIMITATIONS ON CITY'S OBLIGATIONS

2.1 Risk of Non-Appropriation of Grant Funds. This Agreement is subject to the budget and fiscal provisions of the Charter. City shall have no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. Grantee acknowledges that City budget decisions are subject to the discretion of its Mayor and Board of Supervisors. Grantee assumes all risk of possible non-appropriation or non-certification of funds, and such assumption is part of the consideration for this Agreement.

2.2 Certification of Controller. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City’s obligation shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

2.3 Automatic Termination for Nonappropriation of Funds. This Agreement shall automatically 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 any Fiscal Year, this Agreement shall terminate, without penalty, liability or expense of any kind to City, at the end of such portion of the Fiscal Year.

2.4 SUPERSEDURE OF CONFLICTING PROVISIONS. IN THE EVENT OF ANY CONFLICT BETWEEN ANY OF THE PROVISIONS OF THIS ARTICLE 2 AND ANY OTHER PROVISION OF THIS AGREEMENT, THE APPLICATION DOCUMENTS OR ANY OTHER DOCUMENT OR COMMUNICATION RELATING TO THIS AGREEMENT, THE TERMS OF THIS ARTICLE 2 SHALL GOVERN.

2.5 Maximum Costs. Except as may be provided by City ordinances governing emergency conditions, City and its employees and officers are not authorized to request Grantee to perform services or to provide materials, equipment and supplies that would result in Grantee performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies specified in this Agreement unless this Agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. City is not required to pay Grantee for services, materials, equipment or supplies provided by Grantee that are beyond the scope of the services, materials, equipment and supplies agreed upon herein and not approved by a written amendment to this Agreement lawfully executed by City. City and its employees and officers are not authorized to offer or promise to Grantee additional funding for this Agreement that exceeds the maximum amount of funding provided for herein. Additional funding for this Agreement in excess of the maximum provided herein shall require lawful approval and certification by the Controller. City is not required to honor any offered or promised additional funding which exceeds the maximum provided in this Agreement which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any agreement for which funds have not been certified as available in the budget or by supplemental appropriation.

ARTICLE 3 TERM

3.1 Effective Date. This Agreement shall become effective when the Controller has certified to the availability of funds as set forth in Section 2.2 and the Department has notified Grantee thereof in writing.

3.2 Duration of Term. The term of this Agreement shall commence on **July 1, 2023** and expire on **June 30, 2025**, unless earlier terminated as otherwise provided herein. Grantee shall not begin performance of its obligations under this Agreement until it receives written notice from City to proceed.

ARTICLE 4 IMPLEMENTATION OF GRANT PLAN

4.1 Implementation of Grant Plan; Cooperation with Monitoring. Grantee shall diligently and in good faith implement the Grant Plan on the terms and conditions set forth in this Agreement and, to the extent that they do not differ from this Agreement, the Application Documents. Grantee shall not materially change the nature or scope of the Grant Plan during the term of this Agreement without the prior written consent of City. Grantee shall promptly comply with all standards, specifications and formats of City, as they may from time to time exist, related to evaluation, planning and monitoring of the Grant Plan and shall cooperate in good faith with City in any evaluation, planning or monitoring activities conducted or authorized by City.

4.2 Grantee's Personnel.

(a) **Qualified Personnel.** The Grant Plan shall be implemented only by competent personnel under the direction and supervision of Grantee.

(b) **Grantor Vaccination Policy.**

(c) Expired as of 3/1/23. (see <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>)

4.3 Ownership of Results. Any interest of Grantee or any subgrantee, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or

other documents or Publications prepared by Grantee or any subgrantee in connection with this Agreement or the implementation of the Grant Plan or the services to be performed under this Agreement, shall become the property of and be promptly transmitted to City. Notwithstanding the foregoing, Grantee may retain and use copies for reference and as documentation of its experience and capabilities.

4.4 Works for Hire. If, in connection with this Agreement or the implementation of the Grant Plan, Grantee or any subgrantee creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship or Publications, such creations shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such creations shall be the property of City. If it is ever determined that any such creations are not works for hire under applicable law, Grantee hereby assigns all copyrights thereto to City, and agrees to provide any material, execute such documents and take such other actions as may be necessary or desirable to effect such assignment. With the prior written approval of City, Grantee may retain and use copies of such creations for reference and as documentation of its experience and capabilities. Grantee shall obtain all releases, assignments or other agreements from subgrantees or other persons or entities implementing the Grant Plan to ensure that City obtains the rights set forth in this Grant.

4.5 Publications and Work Product.

(a) Grantee understands and agrees that City has the right to review, approve, disapprove or conditionally approve, in its sole discretion, the work and property funded in whole or part with the Grant Funds, whether those elements are written, oral or in any other medium. Grantee has the burden of demonstrating to City that each element of work or property funded in whole or part with the Grant Funds is directly and integrally related to the Grant Plan as approved by City. City shall have the sole and final discretion to determine whether Grantee has met this burden.

(b) Without limiting the obligations of Grantee set forth in subsection (a) above, Grantee shall submit to City for City's prior written approval any Publication, and Grantee shall not disseminate any such Publication unless and until it receives City's consent. In addition, Grantee shall submit to City for approval, if City so requests, any other program material or form that Grantee uses or proposes to use in furtherance of the Grant Plan, and Grantee shall promptly provide to City one copy of all such materials or forms within two (2) days following City's request. The City's approval of any material hereunder shall not be deemed an endorsement of, or agreement with, the contents of such material, and the City shall have no liability or responsibility for any such contents. The City reserves the right to disapprove any material covered by this section at any time, notwithstanding a prior approval by the City of such material. Grantee shall not charge for the use or distribution of any Publication funded all or in part with the Grant Funds, without first obtaining City's written consent, which City may give or withhold in its sole discretion.

(c) Grantee shall distribute any Publication solely within San Francisco, unless City otherwise gives its prior written consent, which City may give or withhold in its sole discretion. In addition, Grantee shall furnish any services funded in whole or part with the Grant Funds under this Agreement solely within San Francisco, unless City otherwise gives its prior written consent, which City may give or withhold in its sole discretion.

(d) City may disapprove any element of work or property funded in whole or part by the Grant Funds that City determines, in its sole discretion, has any of the following characteristics: is divisive or discriminatory; undermines the purpose of the Grant Plan; discourages otherwise qualified potential employees or volunteers or any clients from participating in activities covered under the Grant Plan; undermines the effective delivery of services to clients of Grantee; hinders the achievement of any other

purpose of City in making the Grant under this Agreement; or violates any other provision of this Agreement or applicable law. If City disapproves any element of the Grant Plan as implemented, or requires any change to it, Grantee shall immediately eliminate the disapproved portions and make the required changes. If City disapproves any materials, activities or services provided by third parties, Grantee shall immediately cease using the materials and terminate the activities or services and shall, at City's request, require that Grantee obtain the return of materials from recipients or deliver such materials to City or destroy them.

(e) City has the right to monitor from time to time the administration by Grantee or any of its subcontractors of any programs or other work, including, without limitation, educational programs or trainings, funded in whole or part by the Grant Funds, to ensure that Grantee is performing such element of the Grant Plan, or causing such element of the Grant Plan to be performed, consistent with the terms and conditions of this Agreement.

(f) Grantee shall acknowledge City's funding under this Agreement in all Publications. Such acknowledgment shall conspicuously state that the activities are sponsored in whole or in part through a grant from the Department. Except as set forth in this subsection, Grantee shall not use the name of the Department or City (as a reference to the municipal corporation as opposed to location) in any Publication without prior written approval of City.

ARTICLE 5 USE AND DISBURSEMENT OF GRANT FUNDS

5.1 Maximum Amount of Grant Funds.

The amount of the Grant Funds disbursed hereunder shall not exceed **Ten Million, Three Hundred Seventy-Seven Thousand Thirty-Six Dollars (\$10,377,036)** for the period **from July 1, 2023 to June 30, 2025, plus any contingent amount authorized by City and certified as available by the Controller.**

Contingent amount: Up to **One Million, Thirty-Seven Thousand Seven Hundred Four Dollars (\$1,037,704)** may be available, in the City's sole discretion as a contingency but only subject to written authorization by the City and if monies are certified as available by the Controller.

The maximum amount of Grant Funds disbursed hereunder shall not exceed **Eleven Million, Four Hundred Fourteen Thousand Seven Hundred Forty Dollars (\$11,414,740)** for the period from **July 1, 2023 to June 30, 2025.**

Grantee understands that the maximum amount of Grant Funds disbursement identified above in Section 5.1 of this Agreement, includes the amount shown as the contingent amount and may not to be used in Program Budget(s) attached to this Agreement as Appendix B, and is not available to Grantee without a written revision to the Program Budgets of Appendix B approved by Agency. Grantee further understands that no payment of any portion of this contingency amount will be made unless and until such funds are certified as available by Controller. Grantee agrees to fully comply with these laws, regulations, and policies and procedures.

5.2 Use of Grant Funds. Grantee shall use the Grant Funds only for Eligible Expenses as set forth in Appendix A and for no other purpose. Grantee shall expend the Grant Funds in accordance with the Budget and shall obtain the prior approval of City before transferring expenditures from one line item to another within the Budget.

5.3 Disbursement Procedures. Grant Funds shall be disbursed to Grantee as follows:

(a) Grantee shall submit to the Department for approval, in the manner specified for notices pursuant to Article 15, a document (a "Funding Request") substantially in the form attached as Appendix C. Any unapproved Funding Requests shall be returned by the Department to Grantee with a brief explanation why the Funding Request was rejected. If any such rejection relates only to a portion of Eligible Expenses itemized in a Funding Request, the Department shall have no obligation to disburse any Grant Funds for any other Eligible Expenses itemized in such Funding Request unless and until Grantee submits a Funding Request that is in all respects acceptable to the Department.

(b) The Department shall make all disbursements of Grant Funds pursuant to this Section through electronic payment or by check payable to Grantee sent via U.S. mail in accordance with Article 15, unless the Department otherwise agrees in writing, in its sole discretion. For electronic payment, 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. The Department shall make disbursements of Grant Funds no more than once during each MONTH.

ARTICLE 6 REPORTING REQUIREMENTS; AUDITS; PENALTIES FOR FALSE CLAIMS

6.1 Regular Reports. Grantee shall provide, in a prompt and timely manner, financial, operational and other reports, as requested by the Department, in form and substance satisfactory to the Department. Such reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages, to the maximum extent possible.

6.2 Organizational Documents. If requested by City, Grantee shall provide to City the names of its current officers and directors and certified copies of its Articles of Incorporation and Bylaws as well as satisfactory evidence of the valid nonprofit status described in Section 8.1.

6.3 Notification of Defaults or Changes in Circumstances. Grantee shall notify City immediately of (a) any Event of Default or event that, with the passage of time, would constitute an Event of Default; and (b) any change of circumstances that would cause any of the representations and warranties contained in Article 8 to be false or misleading at any time during the term of this Agreement.

6.4 Financial Statements. Pursuant to San Francisco Administrative Code Section 67.32 and Controller requirements, if requested, within sixty (60) days following the end of each Fiscal Year, Grantee shall deliver to City an unaudited balance sheet and the related statement of income and cash flows for such Fiscal Year, all in reasonable detail acceptable to City, certified by an appropriate financial officer of Grantee as accurately presenting the financial position of Grantee. If requested by City, Grantee shall also deliver to City, no later than one hundred twenty (120) days following the end of any Fiscal Year, an audited balance sheet and the related statement of income and cash flows for such Fiscal Year, certified by a reputable accounting firm as accurately presenting the financial position of Grantee.

6.5 Books and Records. Grantee shall establish and maintain accurate files and records of all aspects of the Grant Plan and the matters funded in whole or in part with Grant Funds during the term of this Agreement. Without limiting the scope of the foregoing, Grantee shall establish and maintain accurate

financial books and accounting records relating to Eligible Expenses incurred and Grant Funds received and expended under this Agreement, together with all invoices, documents, payrolls, time records and other data related to the matters covered by this Agreement, whether funded in whole or in part with Grant Funds. Grantee shall maintain all of the files, records, books, invoices, documents, payrolls and other data required to be maintained under this Section in a readily accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until any final audit has been fully completed, whichever is later.

6.6 Inspection and Audit. Grantee shall make available to City, its employees and authorized representatives, during regular business hours all of the files, records, books, invoices, documents, payrolls and other data required to be established and maintained by Grantee under Section 6.5. Grantee shall permit City, its employees and authorized representatives to inspect, audit, examine and make excerpts and transcripts from any of the foregoing. The rights of City pursuant to this Section shall remain in effect so long as Grantee has the obligation to maintain such files, records, books, invoices, documents, payrolls and other data under this Article 6.

6.7 Submitting False Claims Grantee shall at all times deal in good faith with the City, shall only submit a Funding Request to the City upon a good faith and honest determination that the funds sought are for Eligible Expenses under the Grant, and shall only use Grant Funds for payment of Eligible Expenses as set forth in Appendix A. Any Grantee who commits any of the following false acts shall be liable to the City for three times the amount of damages the City sustains because of the Grantee's act. A Grantee will be deemed to have submitted a false claim to the City if the Grantee: (a) knowingly presents or causes to be presented to an officer or employee of the City a false Funding Request; (b) knowingly disburses Grants Funds for expenses that are not Eligible Expenses; (c) knowingly makes, uses, or causes to be made or used a false record or statement to get a false Funding Request paid or approved by the City; (d) conspires to defraud the City by getting a false Funding Request allowed or paid by 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.

6.8 Grantee's Board of Directors. Grantee shall at all times be governed by a legally constituted and fiscally responsible board of directors. Such board of directors shall meet regularly and maintain appropriate membership, as established in Grantee's bylaws and other governing documents and shall adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Grantee's board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Grantee of its obligations under this Agreement.

ARTICLE 7 TAXES

7.1 Grantee to Pay All Taxes. Grantee shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory interest taxes and California sales and use taxes, levied upon or in connection with this Agreement, the Grant Plan, the Grant Funds or any of the activities contemplated by this Agreement.

7.2 Use of City Real Property. If at any time this Agreement entitles Grantee to the possession, occupancy or use of City real property for private gain, the following provisions shall apply:

(a) Grantee, on behalf of itself and any subgrantees, successors and assigns, recognizes and understands that this Agreement may create a possessory interest subject to property taxation and Grantee, and any subgrantee, successor or assign, may be subject to the payment of such taxes.

(b) Grantee, on behalf of itself and any subgrantees, successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or other extension of this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Grantee shall report any assignment or other transfer of any interest in this Agreement or any renewal or extension thereof to the County Assessor within sixty (60) days after such assignment, transfer, renewal or extension.

(c) Grantee shall provide such other information as may be requested by City to enable City to comply with any reporting requirements under applicable law with respect to possessory interests.

7.3 Withholding. Grantee agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Grantee further acknowledges and agrees that City may withhold any payments due to Grantee under this Agreement if Grantee is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Grantee, without interest, upon Grantee coming back into compliance with its obligations.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants each of the following as of the date of this Agreement and at all times throughout the term of this Agreement:

8.1 Organization; Authorization. Grantee is a nonprofit corporation, duly organized and validly existing and in good standing under the laws of the jurisdiction in which it was formed. Grantee has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section. Grantee has duly authorized by all necessary action the execution, delivery and performance of this Agreement. Grantee has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation of Grantee, enforceable against Grantee in accordance with the terms hereof.

8.2 Location. Grantee's operations, offices and headquarters are located at the address for notices set forth in Section 15. All aspects of the Grant Plan will be implemented at the geographic location(s), if any, specified in the Grant Plan.

8.3 No Misstatements. No document furnished or to be furnished by Grantee to City in connection with the Application Documents, this Agreement, any Funding Request or any other document relating to any of the foregoing, contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

8.4 Conflict of Interest.

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

(b) Not more than one member of an immediate family serves or will serve as an officer, director or employee of Grantee, without the prior written consent of City. For purposes of this subsection, "immediate family" shall include husband, wife, domestic partners, brothers, sisters, children and parents (both legal parents and step-parents).

8.5 No Other Agreements with City. Except as expressly itemized in Appendix D, neither Grantee nor any of Grantee's affiliates, officers, directors or employees has any interest, however remote, in any other agreement with City including any commission, department or other subdivision thereof.

8.6 Subcontracts. Except as may be permitted under Section 13.3, Grantee has not entered into any agreement, arrangement or understanding with any other person or entity pursuant to which such person or entity will implement or assist in implementing all or any portion of the Grant Plan.

8.7 Eligibility to Receive Federal Funds. By executing this Agreement, Grantee certifies that Grantee is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Grantee acknowledges that this certification of eligibility to receive federal funds is a material term of the Agreement.

ARTICLE 9 INDEMNIFICATION AND GENERAL LIABILITY

9.1 Indemnification. Grantee shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses arising from, in connection with or caused by: (a) a material breach of this Agreement by Grantee; (b) a material breach of any representation or warranty of Grantee contained in this Agreement; (c) any personal injury caused, directly or indirectly, by any act or omission of Grantee or its employees, subgrantees or agents; (d) any property damage caused, directly or indirectly by any act or omission of Grantee or its employees, subgrantees or agents; (e) the use, misuse or failure of any equipment or facility used by Grantee, or by any of its employees, subgrantees or agents, regardless of whether such equipment or facility is furnished, rented or loaned to Grantee by an Indemnified Party; (f) any tax, fee, assessment or other charge for which Grantee is responsible under Article 7; or (g) any infringement of patent rights, copyright, trade secret or any other proprietary right or trademark of any person or entity in consequence of the use by any Indemnified Party of any goods or services furnished to such Indemnified Party in connection with this Agreement. Grantee's obligations under the immediately preceding sentence shall apply to any Loss that is caused in whole or in part by the active or passive negligence of any Indemnified Party, but shall exclude any Loss caused solely by the willful misconduct of the Indemnified Party. The foregoing indemnity shall include, without limitation, consultants and experts and related costs and City's costs of investigating any claims against the City.

9.2 Duty to Defend; Notice of Loss. Grantee acknowledges and agrees that its obligation to defend the Indemnified Parties under Section 9.1: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of

Section 9.1, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to Grantee by the Indemnified Party and continues at all times thereafter. The Indemnified Party shall give Grantee prompt notice of any Loss under Section 9.1 and Grantee shall have the right to defend, settle and compromise any such Loss; provided, however, that the Indemnified Party shall have the right to retain its own counsel at the expense of Grantee if representation of such Indemnified Party by the counsel retained by Grantee would be inappropriate due to conflicts of interest between such Indemnified Party and Grantee. An Indemnified Party's failure to notify Grantee promptly of any Loss shall not relieve Grantee of any liability to such Indemnified Party pursuant to Section 9.1, unless such failure materially impairs Grantee's ability to defend such Loss. Grantee shall seek the Indemnified Party's prior written consent to settle or compromise any Loss if Grantee contends that such Indemnified Party shares in liability with respect thereto.

9.3 Incidental and Consequential Damages. Losses covered under this Article 9 shall include any and all incidental and consequential damages resulting in whole or in part from Grantee's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that any Indemnified Party may have under applicable law with respect to such damages.

9.4 LIMITATION ON LIABILITY OF CITY. CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF GRANT FUNDS ACTUALLY DISBURSED HEREUNDER. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT, THE APPLICATION DOCUMENTS OR ANY OTHER DOCUMENT OR COMMUNICATION RELATING TO 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 LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE GRANT FUNDS, THE GRANT PLAN OR ANY ACTIVITIES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

ARTICLE 10 INSURANCE

10.1 Types and Amounts of Coverage. Without limiting Grantee's liability pursuant to Article 9, Grantee shall maintain in force, during the full term of this Agreement, insurance in the following amounts and coverages:

- (a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than one million dollars (\$1,000,000) each accident, injury, or illness.
- (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; policy must include Abuse and Molestation coverage, and
- (c) Commercial Automobile Liability Insurance with limits not less than one million dollars (\$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 for negligent acts, errors or omission with respect to professional or technical services, if any, required in the performance of this Agreement with limits not less than one million dollars (\$1,000,000) each claim.
- (e) Cyber and Privacy Insurance with limits of not less than \$1,000,000 per claim. 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.

10.2 Additional Requirements for General and Automobile Coverage. Commercial General Liability and Commercial Automobile Liability insurance policies shall:

- (a) Name as additional insured City and its officers, agents and employees.
- (b) Provide 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, except with respect to limits of liability.

10.3 Additional Requirements for All Policies. All policies shall be endorsed to provide at least thirty (30) days' advance written notice to City of cancellation of policy for any reason, nonrenewal or reduction in coverage and specific notice mailed to City's address for notices pursuant to Article 15.

10.4 Required Post-Expiration Coverage. Should any of the insurance required hereunder be provided under a claims-made form, Grantee shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the term hereof give rise to claims made after expiration or termination of the Agreement, such claims shall be covered by such claims-made policies.

10.5 General Annual Aggregate Limit/Inclusion of Claims Investigation or Legal Defense Costs. Should any of the insurance required hereunder 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.

10.6 Evidence of Insurance. Before commencing any operations under this Agreement, Grantee shall furnish to City certificates of insurance, and additional insured policy endorsements, in form and with insurers satisfactory to City, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon City's request. Before commencing any operations under this Agreement, Grantee shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

10.7 Effect of Approval. Approval of any insurance by City shall not relieve or decrease the liability of Grantee hereunder.

10.8 Insurance for Subcontractors and Evidence of this Insurance. If a subcontractor will be used to complete any portion of this agreement, the grantee shall ensure that the subcontractor shall provide all

necessary insurance and shall name the City and County of San Francisco, its officers, agents, and employees and the grantee listed as additional insureds.

ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES

11.1 Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default” under this Agreement:

(a) **False Statement.** Any statement, representation or warranty contained in this Agreement, in the Application Documents, in any Funding Request or in any other document submitted to City under this Agreement is found by City to be false or misleading.

(b) **Failure to Provide Insurance.** Grantee fails to provide or maintain in effect any policy of insurance required in Article 10.

(c) **Failure to Comply with Representations and Warranties or Applicable Laws.** Grantee fails to perform or breaches any of the terms or provisions of Article 8 or 16.

(d) **Failure to Perform Other Covenants.** Grantee fails to perform or breaches any other agreement or covenant of this Agreement to be performed or observed by Grantee as and when performance or observance is due and such failure or breach continues for a period of ten (10) days after the date on which such performance or observance is due.

(e) **Cross Default.** Grantee defaults under any other agreement between Grantee and City (after expiration of any grace period expressly stated in such agreement).

(f) **Voluntary Insolvency.** Grantee (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 Grantee or of any substantial part of Grantee's property or (v) takes action for the purpose of any of the foregoing.

(g) **Involuntary Insolvency.** Without consent by Grantee, a court or government authority enters an order, and such order is not vacated within ten (10) days, (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Grantee or with respect to any substantial part of Grantee'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 Grantee.

11.2 Remedies upon Event of Default. Upon and during the continuance of an Event of Default, City may do any of the following, individually or in combination with any other remedy:

(a) **Termination.** City may terminate this Agreement by giving a written termination notice to Grantee of the Event of Default and that, on the date specified in the notice, this Agreement shall terminate and all rights of Grantee hereunder shall be extinguished. In the sole discretion of the City, Grantee may be allowed ten (10) days to cure the default. In the event of termination for default, Grantee

will be paid for Eligible Expenses in any Funding Request that was submitted and approved by City prior to the date of termination specified in such notice.

(b) **Withholding of Grant Funds.** City may withhold all or any portion of Grant Funds not yet disbursed hereunder, regardless of whether Grantee has previously submitted a Funding Request or whether City has approved the disbursement of the Grant Funds requested in any Funding Request. Any Grant Funds withheld pursuant to this Section and subsequently disbursed to Grantee after cure of applicable Events of Default, if granted by the City in its sole discretion, shall be disbursed without interest.

(c) **Offset.** City may offset against all or any portion of undisbursed Grant Funds hereunder or against any payments due to Grantee under any other agreement between Grantee and City the amount of any outstanding Loss incurred by any Indemnified Party, including any Loss incurred as a result of the Event of Default.

(d) **Return of Grant Funds.** City may demand the immediate return of any previously disbursed Grant Funds that have been claimed or expended by Grantee in breach of the terms of this Agreement, together with interest thereon from the date of disbursement at the maximum rate permitted under applicable law.

11.3 Termination for Convenience. City shall have the option, in its sole discretion, to terminate this Agreement at any time for convenience and without cause. City shall exercise this option by giving Grantee written notice that specifies the effective date of termination. Upon receipt of the notice of termination, Grantee shall undertake with diligence all necessary actions to effect the termination of this Agreement on the date specified by City and minimize the liability of Grantee and City to third parties. Such actions shall include, without limitation:

(a) Halting the performance of all work 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; and

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

In no event shall City be liable for costs incurred by Grantee or any of its subcontractors after the termination date specified by City, except for those costs incurred at the request of City pursuant to this section.

11.4 Remedies Nonexclusive. Each of the 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 remedies contained herein are in addition to all other remedies available to City at law or in equity by statute or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy.

11.5 Registry of Charitable Trusts

Grantee represents that it is in good standing with the California Attorney General's Registry of Charitable Trusts and will remain in good standing during the term of this Agreement. Grantee shall immediately notify City of any change in its eligibility to perform under the Agreement. Upon City request, Grantee shall provide documentation demonstrating its compliance with applicable legal

requirements. If Grantee will use any subgrantees to perform the Agreement, Grantee is responsible for ensuring they are also in compliance with the California Attorney General's Registry of Charitable Trusts at the time of grant execution and for the duration of the agreement. Any failure by Grantee or any subgrantees to remain in good standing with applicable requirements shall be a material breach of this Agreement.

ARTICLE 12

DISCLOSURE OF INFORMATION AND DOCUMENTS

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

12.2 Sunshine Ordinance. Grantee acknowledges and agrees that this Agreement and the Application Documents are subject to Section 67.24(e) of the San Francisco Administrative Code, which provides that contracts, including this Agreement, grantee's bids, responses to Requests for Proposals and all other records of communications between City and persons or entities seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in Section 67.24(e) (as it exists on the date hereof) requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All information provided by Grantee covered by Section 67.24(e) (as it may be amended from time to time) will be made available to the public upon request.

12.3 Financial Projections. Pursuant to San Francisco Administrative Code Section 67.32, Grantee agrees upon request to provide City with financial projections (including profit and loss figures) for the activities and/or projects contemplated by this Grant ("Project") and annual audited financial statements thereafter. Grantee agrees that all such projections and financial statements shall be public records that must be disclosed.

12.4 Data Security. To prevent unauthorized access of City Data,

(a) Contractor shall at all times during the Term provide and maintain up-to-date security with respect to (a) the Services, (b) Contractor's website, (c) Contractor's physical facilities, (d) Contractor's infrastructure, and (e) Contractor's networks.

(b) Contractor shall provide security for its networks and all Internet connections consistent with industry best practices, and will promptly install all patches, fixes, upgrades, updates and new versions of any security software it employs.

(c) Contractor will maintain appropriate safeguards to restrict access to City's Data to those employees, agents or service providers of Contractor who need the information to carry out the purposes for which it was disclosed to Contractor.

(d) For information disclosed in electronic form, Contractor agrees that appropriate safeguards include electronic barriers (e.g., most current industry standard encryption for transport and storage, such as the National Institute of Standards and Technology's Internal Report 7977

or Federal Information Processing Standards [FIPS] 140-2 [Security Requirements for Cryptographic Modules] or FIPS-197 or successors, intrusion prevention/detection or similar barriers) and secure authentication (e.g., password protected) access to the City's Confidential Information and hosted City Data.

(e) For information disclosed in written form, Contractor agrees that appropriate safeguards include secured storage of City Data.

(f) City Data shall be encrypted at rest and in transit with controlled access.

(g) Contractor will establish and maintain any additional physical, electronic, administrative, technical and procedural controls and safeguards to protect City Data that are no less rigorous than accepted industry practices (including, as periodically amended or updated, the International Organization for Standardization's standards: ISO/IEC 27001:2005 – Information Security Management Systems – Requirements and ISO-IEC 27002:2005 – Code of Practice for International Security Management, NIST Special Publication 800-53 Revision 4 or its successor, NIST Special Publication 800-18 or its successor, the Information Technology Library (ITIL) standards, the Control Objectives for Information and related Technology (COBIT) standards or other applicable industry standards for information security), and shall ensure that all such controls and safeguards, including the manner in which Confidential Information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.

(h) Contractor warrants to the City compliance, in performing its obligations hereunder, with the following (as periodically amended or updated) as applicable:

(i) The California Information Practices Act/California Consumer Privacy Act (Civil Code §§ 1798 et seq);

(ii) The European General Data Protection Regulation (GDPR);

(iii) Relevant security provisions of the Internal Revenue Service (IRS) Publication 1075, including the requirements that Data not traverse networks located outside of the United States;

(iv) Relevant security provisions of the Payment Card Industry (PCI) Data Security Standard (PCI DSS) including the PCI DSS Cloud Computing Guidelines;

(v) Relevant security provisions of the Social Security Administration (SSA) Document Electronic Information Exchange Security Requirement and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration;

(vi) Relevant security provisions of the Criminal Justice Services (CJIS) Security policy;

(vii) Relevant security provisions of the Medi-Cal Privacy and Security Agreement between the California Department of Health Care Services and the County of San Francisco.

12.5 Data Privacy and Information Security Program. Without limiting Contractor's obligation of confidentiality as further described herein, Contractor shall establish and maintain a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (i) ensure the security and confidentiality of the City Data; (ii) protect against any anticipated threats or hazards to the security or integrity of the City Data; (iii) protect against unauthorized disclosure, access to, or use of the City Data; (iv) ensure the

proper disposal of City Data; and, (v) ensure that all of Contractor's employees, agents, and subcontractors, if any, comply with all of the foregoing.

12.6 Data Transmission. Contractor shall ensure that all electronic transmission or exchange of system and application data with City and/or any other parties expressly designated by City shall take place via encrypted secure means (e.g. HTTPS or SFTP or most current industry standard established by NIST). Contractor shall also ensure that all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor shall ensure that no City Data of any kind shall be copied, modified, destroyed, deleted, transmitted, exchanged or otherwise passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by City. Contractor is prohibited from accessing City Data from outside the continental United States.

12.7 American Institute of Certified Public Accounts (AICPA) Audit Reports.

(a) Contractor shall provide to City, on an annual basis, an SOC 1, Type 2 Audit Report, to be conducted by an independent third party ("Audit Reports") (if Contractor is using a hosting service provider, Contractor shall provide such Audit Reports it receives from its service provider or providers) as follows: (a) the Audit Reports shall include a 365 day (12-month) testing period; and (b) the Audit Reports shall be available to City no later than thirty (30) days after they are received by Contractor. If Contractor receives a so-called "negative assurance opinion," or the annual Audit Report finds a material data privacy or information security issue, Contractor shall notify City of such opinion within three (3) days of receipt by Contractor. Contractor shall implement reasonably required safeguards as identified by any audit of Contractor's data privacy and information security program or promptly notify City in writing if Contractor is unable to implement mitigation measures to address the issue(s). Upon any such notification, City shall have the right, without further obligation or liability to Contractor, to terminate this Agreement. Any failure by Contractor to comply with this Section shall be a material breach of this Agreement.

(b) **Audit of Contractor's Policies.** Contractor agrees to make its policies, procedures and practices regarding Data Security available to City, if needed, and agrees that City reserves the rights, including, but not limited to, making a site visit, scanning for malicious codes, and hiring a third-party to perform a security audit if City determines that the Audit Report is unsatisfactory.

(c) **Information Security Audits.** Contractor must contract with an independent third party to perform yearly information security audits of their primary and backup Data Centers. The annual audits must include an outside penetration/vulnerability test, and internal penetration and vulnerability tests with the third-party directly on the internal network. The summary results of the audits must be shared with the City. All audit findings must be remedied.

Audit Findings. Contractor shall implement reasonably required safeguards as identified by City or by any audit of Contractor's data privacy and information security program.

**ARTICLE 13
ASSIGNMENTS AND SUBCONTRACTING**

13.1 No Assignment by Grantee. Grantee shall not, either directly or indirectly, assign, transfer, hypothecate, subcontract or delegate all or any portion of this Agreement or any rights, duties or obligations of Grantee hereunder without the prior written consent of City. This Agreement shall not, nor shall any interest herein, be assignable as to the interest of Grantee involuntarily or by operation of law without the prior written consent of City. A change of ownership or control of Grantee or a sale or transfer of substantially all of the assets of Grantee shall be deemed an assignment for purposes of this Agreement.

13.2 Agreement Made in Violation of this Article. Any agreement made in violation of Section 13.1 shall confer no rights on any person or entity and shall automatically be null and void.

13.3 Subcontracting. If Appendix E lists any permitted subgrantees, then notwithstanding any other provision of this Agreement to the contrary, Grantee shall have the right to subcontract on the terms set forth in this Section. If Appendix E is blank or specifies that there are no permitted subgrantees, then Grantee shall have no rights under this Section.

(a) **Limitations.** In no event shall Grantee subcontract or delegate the whole of the Grant Plan. Grantee may subcontract with any of the permitted subgrantees set forth on Appendix E without the prior consent of City; provided, however, that Grantee shall not thereby be relieved from any liability or obligation under this Agreement and, as between City and Grantee, Grantee shall be responsible for the acts, defaults and omissions of any subgrantee or its agents or employees as fully as if they were the acts, defaults or omissions of Grantee. Grantee shall ensure that its subgrantees comply with all of the terms of this Agreement, insofar as they apply to the subcontracted portion of the Grant Plan. All references herein to duties and obligations of Grantee shall be deemed to pertain also to all subgrantees to the extent applicable. A default by any subgrantee shall be deemed to be an Event of Default hereunder. Nothing contained in this Agreement shall create any contractual relationship between any subgrantee and City.

(b) **Terms of Subcontract.** Each subcontract shall be in form and substance acceptable to City and shall expressly provide that it may be assigned to City without the prior consent of the subgrantee. In addition, each subcontract shall incorporate all of the terms of this Agreement, insofar as they apply to the subcontracted portion of the Grant Plan. Without limiting the scope of the foregoing, each subcontract shall provide City, with respect to the subgrantee, the audit and inspection rights set forth in Section 6.6. Upon the request of City, Grantee shall promptly furnish to City true and correct copies of each subcontract permitted hereunder.

13.4 Grantee Retains Responsibility. Grantee shall remain liable for the performance by any assignee or subgrantee of all of the covenants terms and conditions contained in this Agreement.

ARTICLE 14 INDEPENDENT CONTRACTOR STATUS

14.1 Nature of Agreement. Grantee shall be deemed at all times to be an independent contractor and is solely responsible for the manner in which Grantee implements the Grant Plan and uses the Grant Funds. Grantee shall at all times remain solely liable for the acts and omissions of Grantee, its officers and directors, employees and agents. Nothing in this Agreement shall be construed as creating a partnership, joint venture, employment or agency relationship between City and Grantee.

14.2 Direction. Any terms in this Agreement referring to direction or instruction from the Department or City shall be construed as providing for direction as to policy and the result of Grantee's work only, and not as to the means by which such a result is obtained.

14.3 Consequences of Recharacterization.

(a) 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 Grantee 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 Grantee which can be applied against this liability). City shall subsequently forward such amounts to the relevant taxing authority.

(b) Should a relevant taxing authority determine a liability for past services performed by Grantee for City, upon notification of such fact by City, Grantee shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Grantee under this Agreement (again, offsetting any amounts already paid by Grantee which can be applied as a credit against such liability).

(c) A determination of employment status pursuant to either subsection (a) or (b) of this Section 14.3 shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Grantee shall not be considered an employee of City. Notwithstanding the foregoing, if any court, arbitrator, or administrative authority determine that Grantee is an employee for any other purpose, Grantee agrees to a reduction in City's financial liability hereunder such that the aggregate amount of Grant Funds under this Agreement does not exceed what would have been the amount of such Grant Funds had the court, arbitrator, or administrative authority had not determined that Grantee was an employee.

ARTICLE 15

NOTICES AND OTHER COMMUNICATIONS

15.1 Requirements. Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications hereunder shall be in writing, shall be addressed to the person and address set forth below and may be sent by U.S. mail or e-mail, and shall be addressed as follows:):

If to the Department or City: **HUMAN SERVICES AGENCY**
DIRECTOR OF CONTRACTS, GB00
OFFICE OF CONTRACT MANAGEMENT
P.O. BOX 7988
SAN FRANCISCO, CA 94120-7988

If to Grantee: **INSTITUTE ON AGING**
3575 GEARY BOULEVARD
San Francisco, CA 94118
 Attn: **J. THOMAS BRIODY**
 Email: **TBRIODY@IOAGING.ORG**

Any notice of default must be sent by registered mail.

15.2 Effective Date. All communications sent in accordance with Section 15.1 shall become effective on the date of receipt

15.3 Change of Address. Any party hereto may designate a new address for purposes of this Article 15 by notice to the other party.

15.4 Notification of Breach or Security Incident. Grantee shall notify City within 5 calendar days of any breach of health information or personally identifiable information; any use or disclosure of health information or personally identifiable information not permitted by the Agreement; any Security Incident (except as defined under HIPAA) related to PHI, and any use or disclosure of health information or personally identifiable information in violation of any applicable federal or state laws by Grantee or its agents or subcontractors. The notification shall include, at minimum, the identification of each individual whose health information or personally identifiable information has been, or is reasonably believed by Grantee 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 pursuant to HIPAA 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.

Grantee 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)]. For confirmed breaches or Security Incidents, Grantee shall provide City with a summary report explaining the systems, databases, and/or records that were affected, the details of the type of incident (i.e. ransomware, phishing, malware, virus, stolen information, human error, malicious insiders, password breach, SQL injection attack, XSS attack, DDoS, Man-In-the-Middle attack, etc), whether Grantee has notified and is working with law enforcement, and if Grantee is working with a security or cybersecurity expert, and summary report from the security/cybersecurity expert.

ARTICLE 16 COMPLIANCE

16.1 Reserved.

16.2 Nondiscrimination; Penalties.

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

(b) **Subcontracts.** Grantee 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 subgrantees to comply with such provisions. Grantee's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) **Non-Discrimination in Benefits.** Grantee 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 or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits

specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **Condition to Contract.** As a condition to this Agreement, Grantee shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Grantee shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including the remedies provided in such Chapters. Without limiting the foregoing, Grantee understands that pursuant to Sections 12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of fifty dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Grantee and/or deducted from any payments due Grantee.

16.3 Reserved.

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

16.5 Drug-Free Workplace Policy. Grantee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Grantee and its employees, agents or assigns shall comply with all terms and provisions of such Act and the rules and regulations promulgated thereunder.

16.6 Resource Conservation; Liquidated Damages. Chapter 5 of the San Francisco Environment Code (Resource Conservation) is incorporated herein by reference. Failure by Grantee to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract. If Grantee fails to comply in good faith with any of the provisions of Chapter 5, Grantee shall be liable for liquidated damages in an amount equal to Grantee's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Grantee acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Grantee from any contract with City.

16.7 Compliance with ADA. Grantee acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity to the public, whether directly or through a grantee or contractor, must be accessible to the disabled public. Grantee shall not discriminate against any person protected under the ADA in connection with all or any portion of the Grant Plan and shall comply at all times with the provisions of the ADA.

16.8. Requiring Minimum Compensation for Employees. Grantee shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Grantee is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. Grantee is required to comply

with all of the applicable provisions of 12P, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Grantee certifies that it complies with Chapter 12P.

16.9 Limitations on Contributions. By executing this Agreement, Grantee acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of 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, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Grantee's board of directors; Grantee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10 % in Grantee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Grantee. Grantee certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the grant, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

16.10 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.

16.11 Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, no funds appropriated by the City and County of San Francisco for this Agreement may be expended for organizing, creating, funding, participating in, supporting, or attempting to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity"). The terms of San Francisco Administrative Code Chapter 12.G are incorporated herein by this reference. Accordingly, an employee working in any position funded under this Agreement shall not engage in any Political Activity during the work hours funded hereunder, nor shall any equipment or resource funded by this Agreement be used for any Political Activity. In the event Grantee, or any staff member in association with Grantee, engages in any Political Activity, then (i) Grantee shall keep and maintain appropriate records to evidence compliance with this section, and (ii) Grantee shall have the burden to prove that no funding from this Agreement has been used for such Political Activity. Grantee agrees to cooperate with any audit by the City or its designee in order to ensure compliance with this section. In the event Grantee violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement and any other agreements between Grantee and City, (ii) prohibit Grantee from bidding on or receiving any new City contract for a period of two (2) years, and (iii) obtain reimbursement of all funds previously disbursed to Grantee under this Agreement.

16.12 Preservative-treated Wood Containing Arsenic. Grantee may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Grantee may purchase preservative-treated wood products on the list of environmentally preferable alternatives

prepared and adopted by the Department of the Environment. This provision does not preclude Grantee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

16.13 Reserved. (Working with Minors)”.

16.14 Protection of Private Information. Grantee has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, “Nondisclosure of Private Information,” and 12M.3, “Enforcement” of Administrative Code Chapter 12M, “Protection of Private Information,” which are incorporated herein as if fully set forth. Grantee agrees that any failure of Grantee to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Agreement, bring a false claim action against the Grantee pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Grantee.

16.15 Duty to Collect and Record Client Sexual Orientation and Gender Identity (SOGI) Data. Contractor shall comply with San Francisco Administrative Code Chapter 104 by seeking to collect and record information about clients’ sexual orientation and gender identity, and reporting such data to the Department **annually**. In seeking to collect information about clients’ sexual orientation and gender identity, Contractor shall: (1) communicate to clients that the provision of sexual orientation and gender identity information is voluntary, and no direct services shall be denied to clients who decline to provide that information; (2) solicit gender identity and sexual orientation data using questions and approaches consistent with the Department of Public Health’s Policies and Procedures entitled “Sexual Orientation Guidelines: Principles for Collecting, Coding, and Reporting Identity Data,” reissued on September 2, 2014, and “Sex and Gender Guidelines: Principles for Collecting, Coding, and Reporting Identity Data,” reissued on September 2, 2014, or any successor Policies and Procedures; and (3) advise clients that they will protect personally identifiable information regarding clients’ sexual orientation and gender identity from unauthorized disclosure, to the extent permitted by law. The duty to collect information about gender identity and sexual orientation shall not apply to the extent such collection is incompatible with any professionally reasonable clinical judgment that is based on articulable facts of clinical significance. Further, Contractor shall protect personally identifiable information from unauthorized disclosure, to the extent permitted by law and as required by the Health Insurance Portability and Accountability Act, the California Medical Information Act, Article 1 of the California Constitution, the California Health and Safety Code and regulations promulgated thereunder, the California Welfare and Institutions Code and regulations promulgated thereunder, and any other applicable provision of federal or state law.

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

16.17 Consideration of Criminal History in Hiring and Employment Decisions.

(a) 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.

(b) 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.

16.18 Food Service Waste Reduction Requirements. Grantee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Grantee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Grantee agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Grantee’s failure to comply with this provision.

16.19 Reserved. Slavery Era Disclosure.

16.20 Distribution of Beverages and Water.

(a) **Sugar-Sweetened Beverage Prohibition.** Grantee agrees that it shall 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.

(b) **Packaged Water Prohibition.** Grantee agrees that it shall not sell, provide, or otherwise distribute Packaged Water, as defined by San Francisco Environment Code Chapter 24, as part of its performance of this Agreement.

16.21 Compliance with California Department on Aging. If grant is in excess of \$100,000 in California Department of Aging Funding, grantee is required to complete and submit of Standard Form LLL, “Disclosure Form to Report Lobbying”, Form LLL to be found at: <http://www.adp.ca.gov/NNA/files/Documents1X.doc>

16.22 Compliance with Other Laws. Without limiting the scope of any of the preceding sections of this Article 16, Grantee shall keep itself fully informed of City’s Charter, codes, ordinances and regulations

and all state, and federal laws, rules and regulations affecting the performance of this Agreement and shall at all times comply with such Charter codes, ordinances, and regulations rules and laws.

ARTICLE 17 MISCELLANEOUS

17.1 No Waiver. No waiver by the Department or City of any default or breach of this Agreement shall be implied from any failure by the Department or City to take action on account of such default if such default persists or is repeated. No express waiver by the Department or City shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers by City or the Department of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the Department or City of any action requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

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

17.3 Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning or intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Department Head, as the case may be, of the Department who shall decide the true meaning and intent of the Agreement. Such decision shall be final and conclusive.

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

17.5 Headings. All article and section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

17.6 Entire Agreement. This Agreement and the Application Documents set forth the entire Agreement between the parties, and supersede all other oral or written provisions. If there is any conflict between the terms of this Agreement and the Application Documents, the terms of this Agreement shall govern. The following appendices are attached to and a part of this Agreement:

- Appendix A, Services to be Provided**
- Appendix B, Budget-CLF**
- Appendix B-1, Budget-Public Guardian**
- Appendix C, Method of Payment**
- Appendix D, Interests in Other City Grants**
- Appendix E, Permitted Subgrantees**
- Appendix F, Business Associate Agreement**
- Appendix G, Data Access Agreement**
- Appendix H, Privacy Attestation**

17.7 Certified Resolution of Signatory Authority. Upon request of City, Grantee shall deliver to City a copy of the corporate resolution(s) authorizing the execution, delivery and performance of this Agreement, certified as true, accurate and complete by the secretary or assistant secretary of Grantee.

17.8 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.

17.9 Successors; No Third-Party Beneficiaries. Subject to the terms of Article 13, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Article 9, the Indemnified Parties) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

17.10 Survival of Terms. The obligations of Grantee and the terms of the following provisions of this Agreement shall survive and continue following expiration or termination of this Agreement:

Section 4.3 Ownership of Results.	Article 12 Disclosure of Information and Documents
Section 6.4 Financial Statements.	Section 13.4 Grantee Retains Responsibility.
Section 6.5 Books and Records.	Section 14.3 Consequences of Recharacterization.
Section 6.6 Inspection and Audit.	This Article 17 Miscellaneous
Section 6.7 Submitting False Claims; Monetary Penalties	
Article 7 Taxes	
Article 8 Representations and Warranties	
Article 9 Indemnification and General Liability	
Section 10.4 Required Post-Expiration Coverage.	

17.11 Further Assurances. From and after the date of this Agreement, Grantee agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and to carry out the purpose of this Agreement in accordance with this Agreement.

17.12 Dispute Resolution Procedure. The following Dispute Resolution Procedure provides a process to resolve any disputes or concerns relating to the administration of an awarded professional services grant or grant between the City and County of San Francisco and nonprofit health and human services grantees. Grantees and City staff should first attempt to come to resolution informally through discussion and negotiation with the designated contact person in the department. If informal discussion has failed to resolve the problem, grantees and departments should employ the following steps:

Step 1 The grantee will submit a written statement of the concern or dispute addressed to the Grant/Program Manager who oversees the agreement in question. The writing should describe the nature of the concern or dispute, i.e., program, reporting, monitoring, budget, compliance or other concern. The Grant/Program Manager will investigate the concern with the appropriate department staff that are involved with the nonprofit agency's program, and will either convene a meeting with the grantee or provide a written response to the grantee within 10 working days.

Step 2 Should the dispute or concern remain unresolved after the completion of Step 1, the grantee may request review by the Division or Department Head who supervises the Grant/Program Manager.

This request shall be in writing and should describe why the concern is still unresolved and propose a solution that is satisfactory to the grantee. The Division or Department Head will consult with other Department and City staff as appropriate, and will provide a written determination of the resolution to the dispute or concern within 10 working days.

Step 3 Should Steps 1 and 2 above not result in a determination of mutual agreement, the grantee may forward the dispute to the Executive Director of the Department or their designee. This dispute shall be in writing and describe both the nature of the dispute or concern and why the steps taken to date are not satisfactory to the grantee. The Department will respond in writing within 10 working days.

17.13 Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

17.14 MacBride Principles--Northern Ireland. Pursuant to San Francisco Administrative Code Section 12F.5, City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Grantee acknowledges and agrees that he or she has read and understood this section.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first specified herein. The signatories to this Agreement warrant and represent that they have the authority to enter into this agreement on behalf of the respective parties and to bind them to the terms of this Agreement


CITY

HUMAN SERVICES AGENCY

By:  8/10/2023
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Trent Rhorer
Executive Director
Human Services Agency

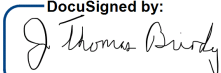
Approved as to Form:

David Chiu
City Attorney

By:  8/7/2023
6548676A9DB34B1...
Charles Bruce
Deputy City Attorney

GRANTEE:

INSTITUTE ON AGING

By:  6/23/2023
4024D44EADF9438...
Print Name: J. Thomas Briody

Title: Chief Executive Officer
Federal Tax ID #:94-2978977
City Supplier Number: 0000018304

Appendix A: Services to be Provided July 1, 2023 to June 30, 2025

Institute on Aging

Community Living Fund - Case Management and Purchase of Services

I. Purpose of Grant

The purpose of this grant is to provide case management and other services as part of the Community Living Fund (CLF) that is being administered by the Department of Disability and Aging Services. The CLF is used to subsidize services, or a combination of goods and services, that help individuals who are currently in or at imminent risk of being institutionalized.

The Community Living Fund Program (CLFP) is intended to reduce unnecessary institutionalization by providing older adults and younger adults with disabilities with options for where and how they receive assistance, care, and support. The design of the CLFP includes a two-pronged approach: (1) coordinated case management; and (2) purchase of services.

The CLFP will provide the resources and services not available by other means, to vulnerable older adults and younger adults with disabilities.

The Community Living Fund Program (CLFP) is consistent with the goals of the Community Living Fund (CLF), which are to:

- A. Enable older adults and adults with disabilities who are eligible to remain living safely in their own homes and communities for as long as possible;
- B. Provide financial support for home and community-based long-term care and supportive services beyond what is currently available;
- C. Offer flexible funding to create “wrap-around” services that provide essential community-based assistance, care, and support;
- D. Facilitate the development of service delivery models that strengthen the community-based long-term care systems and workforce;
- E. Expand, not supplant, existing funding, to fill funding gaps until new sources of financial support for community-based long-term care services can be secured through federal Medicaid waivers and/or other means.

II. Eligibility for Services under the CLF Program

In order to obtain services, an individual must, at a minimum, be:

- A. 18 years or older;
- B. Institutionalized or deemed, at assessment, to be at imminent risk of being institutionalized;
- C. A resident of San Francisco;
- D. Willing and able to live in the community with appropriate supports;

- E. At an income level of 300% of federal poverty or less plus assets up to \$130,000 for case management services. Individuals with only purchase of service needs must have an income level of 300% of federal poverty or less plus assets up to \$6,000.

Further, an individual must have a demonstrated need for a service and/or resource that will serve to prevent institutionalization or enable community living.

The following groups of people will be served:

1. The priority will be patients of Laguna Honda Hospital and Zuckerberg San Francisco General Hospital who are willing and able to be discharged to community living.
2. Patients at other San Francisco acute care hospitals and skilled nursing facilities.
3. Nursing home eligible individuals on the Laguna Honda Hospital waiting list (some of whom are at Zuckerberg San Francisco General Hospital or other hospitals) who are willing and able to remain living in the community.
4. Individuals who are at imminent risk for nursing home or institutional placement, willing and able to remain living in the community with appropriate supports.

Specific conditions or situations such as substance abuse or chronic mental illness shall not be a deterrent to services if the eligibility criteria are met.

III. Target Populations

This program supports all ethnicities and populations in San Francisco with focused expertise to address the unique cultural needs of:

- 1) Persons with low income
- 2) Persons who are socially isolated
- 3) Persons with limited English-speaking proficiency
- 4) Persons from communities of color
- 5) Persons who identify as LGBTQ+
- 6) Persons at risk of institutionalization

IV. Definitions

ADL	Activities of daily living are activities related to personal care. They include bathing or showering, dressing, getting in and out of bed or a chair, walking, using the toilet, and eating.
Adult with a Disability	A person 18-59 years of age living with a disability
BAA	Business Associate Agreement; establishes a legally binding relationship between HIPAA-covered entities and business associates to ensure complete protection of PHI
CalAIM	California Advancing and Innovating Medi-Cal, a program of the state Medi-Cal system with the goal of providing coordinated and equitable access to services throughout the lifespan; will provide for Enhanced Care Management, a person-centered care management approach, and provision of Community Supports,

	services to address social drivers of health such as housing support and medically supported foods.
CARBON	Contracts Administration, Reporting, and Billing Online System
Case Management	Case management is a formal strategy that coordinates and facilitates access to a variety of services in a timely manner for people who need assistance in organizing and managing their care and/or supportive services. It includes a standardized process of client intake, assessment, care planning, care plan implementation, monitoring, reassessment, and discharge/termination. This includes intensive case management services which may require frequent visits and follow up depending on care needs. Case management is an integral component of long-term care service delivery and is central to accessing additional services through the CLF Program.
Community Living Fund	The Community Living Fund (CLF), or “the Fund”, was created in the San Francisco Administrative Code Section 10.100-12 to support aging in place and community placement alternatives for individuals who may otherwise require care within an institution. DAS oversees the administration of the Fund.
Community Living Fund Program	Funded by CLF, the Community Living Fund Program (CLFP) provides for home- and community-based services, or a combination of equipment and services, that will help those who are currently, or at risk of being, institutionalized to continue living independently in their homes, or to return to community living. This program, using a two-pronged approach of coordinated case management and purchased services, provides the needed resources, not available through any other mechanism, to vulnerable older adults and adults with disabilities.
DAS	Department of Disability and Aging Services
Disability	A condition or combination of conditions that is attributable to a mental, cognitive, or physical impairment, including hearing and visual impairments, that results in substantial functional limitations in one (1) or more of the following areas of major life activity: a) Self-care: activities of daily living (ADL), and instrumental activities of daily living (IADL); b) Capacity for independent living and self-direction; c) Cognitive functioning, and emotional adjustment
HIPAA	Health Insurance Portability and Accountability Act. A federal law that created national standards to protect patient health information from being disclosed without a patient’s consent or knowledge.

HITECH	Health Information Technology for Economic and Clinical Health; creates incentives related to health care information technology, including incentives for the use of electronic health record (EHR) systems among providers
HSA	Human Services Agency of the City and County of San Francisco
IADL	Instrumental activities of daily living are the skills and abilities needed to perform certain day-to-day tasks associated with an independent lifestyle. These activities are not considered to be essential for basic functioning, but are regarded as important for assessing day-to-day quality of life and relative independence.
At imminent risk of institutionalization	To be considered at imminent risk of institutionalization, a person must have, at a minimum, one of the following: 1) functional impairment in a minimum of two Activities of Daily Living (ADL): eating, dressing, transfer, bathing, toileting, and grooming; or 2) a medical condition to the extent requiring the level of care that would be provided in a nursing facility; or 3) be unable to manage his/her own affairs due to emotional and/or cognitive impairment, evidenced by functional impairment in a minimum of three Instrumental Activities of Daily Living (IADLs): preparing meals, managing money, shopping for groceries or personal items, performing housework, using a telephone.
MOU	Memorandum of Understanding: describes a bilateral or multilateral agreement between two or more parties.
Older Adult	An individual who is 60 years of age or older
PHI	Protected Health Information; any information in a medical record that can be used to identify an individual, and that was created, used, or disclosed in the course of providing a health care service, such as a diagnosis or treatment
Purchase of Service	Purchased goods and services for clients deemed necessary by assessment; purchases may include equipment, modifications to residence, or needed support services
SOGI	Sexual Orientation and Gender Identity; Ordinance No. 159-16 amended the San Francisco Administrative Code to require City departments and contractors that provide health care and social services to seek to collect and analyze data concerning the sexual orientation and gender identity of the clients they serve (Chapter 104, Sections 104.1 through 104.9)

V. Description of Services

Case Management Component

The Grantee will provide different levels of case management services including intensive case management service and moderate to minimal assistance. These levels of case management allow flexibility to tailor to individual needs to ensure stabilization and to avoid premature hospitalization and/or institutionalization.

Levels of case management are defined as below:

- A. Intensive case management will be provided for persons with complex medical, cognitive, behavioral, and psychological needs who require a maximum amount of care and supervision and access to ongoing resources and services. Intensive case management for unstable clients with chronic and acute complex needs will require extensive coordination of and access to a full range of social, behavioral, mental health, and medical services.
- B. Moderate case management will be provided for persons who require moderate to minimal assistance and support as well as access to one-time resources and services. Moderate case management can address needs of more stable clients with identified situations that require limited intervention to complete. This level of case management ensures stabilization and avoidance of hospitalization and nursing home placement.

Level of case management need and intervention will be determined on assessment by case manager.

Purchase of Services Component

The Grantee will manage purchased goods and services for clients, including those of their sub-contractors if used. The CLFP will support a menu of service options and level of assistance, care, and support, and a range of housing, and supportive services. These services must be deemed necessary by a CLFP case manager, and the funds are only used as a last resort, when all other payment options for that service have been exhausted. The CLFP will access and leverage state and federal funds whenever possible and incorporate processes in CLFP policies and procedures. Purchased services will supplement other available resources to ensure that each client receives the comprehensive array of appropriate services that are necessary to allow for community living.

Additional CLFP Initiatives

The CLFP also supports other program initiatives, and the Grantee will work collaboratively with these initiatives through the identified organization in providing services. All referrals through these initiatives must meet CLFP eligibility criteria. Current initiatives supported by CLFP include:

- A. DAS Public Guardian (PG) Housing Fund - Supported by CLFP through the provision of administration of housing funds for CLFP eligible participants. In this initiative, the PG program provides program support including in-person visits, coordinated case management services, monthly approval of the housing subsidies, and other activities to ensure equitable access and appropriate use of the fund.

Allowable purchases through the PG Housing Fund include:

1. Supplement monthly subsidy (up to 100% as appropriate) for a licensed Assisted Living Facility (ALF), supportive housing, or similar; subsidies will be paid to vendors within the existing CLFP vendor network, and when required, new vendor agreements will be established.
 2. Move-related costs and purchases such as security deposits, moving boxes, transportation for move, care provider hours to pack and unpack belongings, furniture, and similar purchases.
- B. Enhanced Care Management (ECM) - The current grant agreement also includes Enhanced Care Management services through the CalAIM state initiative for members of the San Francisco Health Plan (SFHP) who are adults living in the community who are at risk for long-term care institutionalization as well as nursing facility residents transitioning to the community. Enhanced Care Management for these two populations of focus align with the goals of CLFP. For ECM clients being served by the Grantee and participating in the SFHP CalAIM initiative, the Grantee shall abide by all service provision and documentation requirements as described in SFHP ECM Program Guide (attached). DAS will be responsible for data exchange and claims billing with SFHP, but Grantee will ensure database meets file specifications allowing for the exchange of data in a secure file. Grantee will also provide DAS access to files and database as well as a secure portal within database allowing for data exchange and claims billing.

Program Administration

The Grantee will:

- A. Work with the DAS Benefits and Resource Hub for referrals to the CLFP. All referrals to the CLFP come through the DAS Benefits and Resource Hub, which is the initial entry point for accessing the fund. DAS Benefits and Resource Hub completes an initial screening and refers those presumed eligible for the fund to the CLFP Grantee.
- B. Manage a waitlist with strategic decision making with DAS for financial considerations, prioritizations, and trends.
- C. Coordinate all case management services through clinical supervision; including collaboration between multidisciplinary staff, across all sub-contracted organizations, through weekly scheduled case conferencing. There must be strong collaboration to share expertise.
- D. Work collaboratively with other community organizations presently working with the client and additional ones who can provide specific expertise. When working in collaboration with other agencies or community-based organizations through sub-contracts, MOUs, and/or BAAs, respondent will assure that they will have staffing and experience in the appropriate areas.
- E. Ensure that the purchase of all proposed goods and services is reasonable, prudent and properly procured following clearly written internal fiscal policies and procedures.
- F. CLF is the fund of last resort in the purchase of goods and services. As such, all other viable options must be exhausted prior to utilization of CLF dollars.
- G. Work collaboratively with DAS CLF Program Analyst to strategize program direction.

- H. Develop and maintain collaborations with both City departments and community programs to reach the target population that is eligible for the services supported by the CLFP.
- I. Conduct multidisciplinary meetings with stakeholders and partners monthly or as needed for the purposes of transitioning clients to the community and/or forwarding the mission of CLF.
- J. Support a CLFP Advisory Council to provide a forum for consumer and community feedback. Members should include current and former program participants, representatives from community agencies, as well as a population representative of San Francisco.
- K. Conduct activities that measure program impact such as participant improvements and outcomes in their quality of life as a result of program participation. These activities are conducted annually (at a minimum) to gather additional input from participants regarding their direct experience in an anonymous format.
- L. Work closely with HSA Planning Unit staff to ensure appropriate and accurate collection of data for evaluation and program design analysis as well as with DAS in an ongoing evaluation of the program.
- M. Utilize a dedicated database for the CLFP that tracks client information, assessments, care plans, progress notes, service authorizations and purchased services.
- N. Manage complex billing with strong fiscal management, including the ability to leverage other state and federal funds.
- O. Collect data detailing program impacts such as improvements in participant health outcomes and/or quality of life as a result of program participation.
- P. Comply with requirements to provide time certifications for staff involved in service delivery and service support activities.
- Q. Grantee shall provide interpretation for all limited English-speaking clients either directly or through a service.
- R. Grantee shall provide services to clients in a culturally, ethnically, and linguistically appropriate manner.
- S. Staff will have completed the appropriate training required for the level of care they are providing.
- T. Staff will have the appropriate licenses in good standing, when applicable.
- U. Staff will have no recent history (10 years) of criminal activity, including a history of criminal activities that endanger clients and / or their families.
- V. Staff have no history of liability claims against them.
- W. Staff have no history of fraud, waste, and / or abuse.
- X. Grantee shall not differentiate or discriminate in the scheduling of appointments for services, treatment of clients, the quality of services, or in any other respect. Grantee shall not discriminate against clients on the basis of race, color, national origin, ancestry, religion, sex, marital status, health status, sexual orientation, physical, sensory, or mental handicap, age, socioeconomic status, participation in publicly financed programs of health care, or because any grievance or complaint has been filed by client. Services will be provided in the same manner, in accordance with the same standards, and within the same time availability.
- Y. Grantee shall promptly notify DAS of receipt of any complaints from or on behalf of client and any professional liability claims filed or asserted regarding services provided by, or on behalf of, Grantee. Grantee shall cooperate with the DAS grievance

procedure in resolving client complaints regarding provision of services and/or any other matter related to Grantee. Grantee shall cooperate with DAS resolution of any such complaints or grievances.

- Z. Grantee shall maintain and require its subcontractors to maintain a case record for each client to whom Grantee or subcontractor renders services. The case record should be in such a form and detail as may be required by state and federal law, generally accepted and prevailing professional practice, and any federal, state, or local government agency. Records shall be maintained in a current, detailed, organized, and comprehensive manner. Grantee shall comply with all federal, state, and local confidentiality and accuracy requirements.
- AA. Grantee shall retain all client records, books, charges, and papers relating to Grantee's provision of services to clients, the cost of such services, and payments received. Grantee shall retain all records for at least ten (10) years after rendering services.
- BB. Grantee and subcontractors shall comply with confidentiality, client and medical records and/or any other applicable state and federal laws and regulations with regard to any and all information directly or indirectly accessed or used by respective parties and their personnel, including HIPAA, HITECH, and all regulations promulgated thereunder. Grantee may have data access to Department of Public Health's system according to Business Associate Agreement. This provision shall not affect or limit Grantee's obligation to make available client or medical records, encounter data, and information concerning client care to DAS, any authorized state or federal agency, or other providers of services upon authorized referral.

VI. Department Responsibilities (DAS)

DAS Intake and Screening Unit. All referrals to the CLFP come through the DAS Intake and Screening Unit, which is the initial entry point for accessing the Fund. While community-based long-term care services can be accessed in many ways, CLF is the fund of last resort and any request for support from the CLFP must come through this unit. The DAS Intake and Screening Unit completes an initial screening and refers those presumed eligible for the fund to the Grantee for the CLFP.

DAS will access other funding. DAS will leverage CLFP funding by qualifying for state and federal funding available through programs such as the Community Services Block Grant (CSBG). The Grantee is required to provide time certifications for staff involved in service delivery and service support activities. In addition, DAS will participate in CalAIM initiatives, including Enhanced Care Management, providing access to CalAIM funding.

VII. Collaborative Responsibilities (DAS and Grantee)

Management of the CLFP wait list is an important consideration for the Grantee and DAS. Financial considerations, prioritizations, and trends will be taken into account when considering strategies and decisions for caseload and wait list management.

The DAS Program Analyst, the DAS Intake and Screening Unit, and the Grantee will collaborate on undertaking outreach activities, as necessary, to ensure that the needs of the groups of people in the target population are identified and addressed. DAS and the Grantee will also work collaboratively with LHH to ensure referral pipeline for scattered site housing units is sufficient and ongoing.

The DAS Program Analyst, in collaboration with the DAS Director of Quality Management, will work with the CLFP Director to develop a quality assurance plan and process that fulfills the needs of both parties and the clients.

VII. Service Objectives

On an annual basis, Grantee will meet the following service objectives:

- Objective 1:** Number of unduplicated consumers receiving intensive case management and/or purchased services. **Target = 375**
- Objective 2:** Number of clients newly enrolled in CLFP. **Target = 175**
 - 2. A.** Number of clients enrolled in ECM. **Target = 120**
 - 2. B.** Number of clients enrolled in non-ECM. **Target = 55**
- Objective 3:** Number of clients enrolled in PG Housing Fund. **Target = 6**

Note: These service objectives will be reviewed by DAS and modified as needed.

VIII. Outcome Objectives

DAS is committed to measuring the impact of its investments in community services.

On an annual basis and as needed, Grantee will report progress towards meeting the following outcome Objectives:

- A. Objective 1. Successfully support community living for a period of at least six months for at least 85% of CLFP clients who are being discharged from LHH at the time of enrollment. Identify reasons for re-institutionalization when it occurs.
- B. Objective 2. At least 70% of care plan problems resolved, on average, after one year of enrollment in CLFP (excluding clients with ongoing purchases).
- C. Objective 3. At least 90% of clients believe that CLFP services helped maintain or improve their ability for successful community living, through participation in a client satisfaction survey developed by the CLFP and approved by DAS.

IX. Reporting Requirements

Grantee will provide various reports during the term of the grant agreement:

- A. Grantee will provide an annual report summarizing the contract activities, referencing the tasks as outlined in the negotiated Scope of Services. This report will also include

accomplishments and challenges encountered by the Grantee. This report is due 45 days after the completion of the program year.

- B. Grantee will enter all required data on the CLFP dedicated database and comply with reporting timelines for CLFP reporting requirements, including the CLFP 6-Month and Annual reports.
- C. On an annual basis, Grantee will provide results of surveys detailing program impacts such as improvements in participant health outcomes and/or quality of life as a result of program participation.
- D. Grantee will submit time studies to HSA/DAS for the months of February, May, August and November. The time study is due on the 10th day following the time study month and shall be entered online to this website link: <https://calmaa.hfa3.org/signin>
- E. Quarterly and Annual Reports will be entered into the Contracts Administration, Billing and Reporting Online (CARBON) system.
- F. Grantee will develop and deliver ad hoc reports as requested by HSA.
- G. Grantee will develop and deliver a bi-annual summary report of SOGI data collected as requested by HSA/DAS. The due dates for submitting the summary reports are January 10th (for July 1 – December 31 data) and July 10th (for January 1 – June 30 data).
- H. Grantee will be compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security rules to the extent applicable and to take all reasonable efforts to implement HIPAA and HITECH requirements.
- I. Grantee will become a DAS Business Associate and able to sign and comply with the Business Associate Agreement

Reports requested to be sent via e-mail to the Program Analyst and/or Contract Manager to the following addresses:

Melissa McGee, Program Manager
Office of Community Partnerships
Department of Disability and Aging Services
PO Box 7988
San Francisco, CA 94120
melissa.mcgee@sfgov.org

AND

Tim Vo, Contract Manager
Office of Contracts Management
Human Services Agency
PO Box 7988

San Francisco, CA 94120
tim.vo@sfgov.org

X. Monitoring Activities

A. Program Monitoring: Program monitoring will include review of compliance to specific program standards or requirements; client eligibility and targeted mandates, back up documentation for the units of service and all reporting, and progress of service and outcome objectives; how participant records are collected and maintained; reporting performance including monthly service unit reports, maintenance of service unit logs; agency and organization standards, which include current organizational chart, evidence of provision of training to staff regarding the Elder Abuse Reporting; program operation, which includes a review of a written policies and procedures manual, written project income policies if applicable, grievance procedure posted in the center/office, and also given to the consumers who are homebound, hours of operation are current according to the site chart; a board of director list and whether services are provided appropriately according to Sections VII and VIII. During annual monitoring, DAS will require Grantee to attest to Program Administration responsibilities.

B. Fiscal Compliance and Contract Monitoring: Fiscal monitoring will include review of the Grantee's organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals. The compliance monitoring will include review of Personnel Manual, Emergency Operations Plan, Compliance with the Americans with Disabilities Act, subcontracts, and MOUs, and the current board roster and selected board minutes for compliance with the Sunshine Ordinance.

HUMAN SERVICES AGENCY GRANT BUDGET SUMMARY BY PROGRAM

Name			Term
Institute on Aging			7/1/23 - 6/30/25
(Check One) New <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Modification <input type="checkbox"/>			
If modification, Effective Date of Mod.		No. of Mod.	
Program: Community Living Fund			
Budget Reference Page No.(s)		Total	
Program Term	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
Expenditures			
Salaries & Benefits	\$1,779,046	\$1,779,046	\$3,558,091
Operating Expense	\$732,414	\$707,404	\$1,439,818
Subtotal	\$2,511,460	\$2,486,450	\$4,997,910
Indirect Percentage (%)	15%	15%	15%
Indirect Cost (Line 16 X Line 15)	\$376,719	\$372,967	\$749,686
Allowable Indirect from Subcontracts	\$12,750	\$12,750	\$25,500
Capital Expenditure	\$72,000		\$72,000
Total Expenditures	\$2,972,929	\$2,872,167	\$5,845,096
Purchase of Services	\$1,896,837	\$1,925,599	\$3,822,436
TOTAL EXPENDITURES	\$4,869,766	\$4,797,766	\$9,667,532
HSA Revenues			
DAS Revenue (local)	\$3,718,302	\$3,646,302	\$7,364,604
Federal Funds	\$1,151,464	\$1,151,464	\$2,302,928
Total Revenues	\$4,869,766	\$4,797,766	\$9,667,532
Full Time Equivalent (FTE)			
Prepared by:			
HSA-CO Review Signature:			
HSA #1			

Institute on Aging
Program: Community Living Fund

Appendix B, Page 2

Salaries & Benefits Detail

POSITION TITLE	Agency Totals		For HSA Program		7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
	Annual Full Time Salary for FTE	Total % FTE	% FTE	Adjusted FTE	DAS	DAS	DAS
					Budgeted Salary	Budgeted Salary	Budgeted Salary
CLF Manager	\$ 112,000	1.00	100%	1.00	\$ 112,000	\$ 112,000	\$ 224,000
Business Manager	\$ 120,000	1.00	5%	0.05	\$ 6,000	\$ 6,000	\$ 12,000
VP of Community Living	\$ 200,000	1.00	10%	0.10	\$ 20,000	\$ 20,000	\$ 40,000
Senior Director of Care Management	\$ 146,000	1.00	20%	0.20	\$ 29,200	\$ 29,200	\$ 58,400
Clinical Supervisor #1	\$ 106,555	1.00	100%	1.00	\$ 106,555	\$ 106,555	\$ 213,110
Clinical Supervisor #2	\$ 105,000	1.00	100%	1.00	\$ 105,000	\$ 105,000	\$ 210,000
Accounting Coordinator 1	\$ 66,000	1.00	50%	0.50	\$ 33,000	\$ 33,000	\$ 66,000
Sr. Program Coordinator	\$ 66,000	1.00	50%	0.50	\$ 33,000	\$ 33,000	\$ 66,000
Care Manager #1	\$ 70,274	1.00	100%	1.00	\$ 70,274	\$ 70,274	\$ 140,548
Care Manager #2	\$ 77,119	1.00	100%	1.00	\$ 77,119	\$ 77,119	\$ 154,238
Care Manager #3	\$ 83,478	1.00	100%	1.00	\$ 83,478	\$ 83,478	\$ 166,955
Care Manager #4	\$ 83,478	1.00	100%	1.00	\$ 83,478	\$ 83,478	\$ 166,955
Care Manager #5	\$ 93,152	1.00	100%	1.00	\$ 93,152	\$ 93,152	\$ 186,304
Care Manager #6	\$ 95,016	1.00	100%	1.00	\$ 95,016	\$ 95,016	\$ 190,032
Care Manager #7	\$ 100,834	1.00	100%	1.00	\$ 100,834	\$ 100,834	\$ 201,668
Care Manager #8	\$ 102,851	1.00	100%	1.00	\$ 102,851	\$ 102,851	\$ 205,702
Care Manager #9	\$ 72,188	1.00	100%	1.00	\$ 72,188	\$ 72,188	\$ 144,377
Care Manager #10	\$ 67,000	1.00	50%	0.50	\$ 33,500	\$ 33,500	\$ 67,000
OT Consultant #1	\$ 118,652	1.00	30%	0.30	\$ 35,595	\$ 35,595	\$ 71,191
OT Consultant #2	\$ 130,996	1.00	100%	1.00	\$ 130,996	\$ 130,996	\$ 261,993
	\$ 2,016,593	20.00	15.15	15.15	\$1,423,237	\$1,423,237	\$2,846,473
FRINGE BENEFIT RATE	25%				25%	25%	
EMPLOYEE FRINGE BENEFITS	\$504,148				\$355,809	\$355,809	\$711,618
TOTAL SALARIES & BENEFITS	\$2,520,741				\$1,779,046	\$1,779,046	\$3,558,091
HSA #2							

Institute on Aging
Program: Community Living Fund

Appendix B, Page 3

Operating Expense Detail

Expenditure Category	7/1/23 - 6/30/24	7/1/24 - 6/30/25	Total
			7/1/23 - 6/30/25
Rental of Property	\$96,008	\$96,008	\$192,016
Utilities (Elec, Water, Gas, Phone, Scavenger)			
Office Supplies, Postage	\$8,000	\$8,000	\$16,000
Building Maintenance Supplies and Repair			
Printing and Reproduction			
Insurance	\$6,367	\$6,367	\$12,734
Staff Training			
Staff Travel	\$10,000	\$10,000	\$20,000
Outreach, Marketing	\$4,000	\$4,000	\$8,000
Rental of Equipment			
Consultants/Subcontractors			
Catholic Charities	\$149,950	\$149,950	\$299,900
Self-Help for the Elderly	\$171,350	\$171,350	\$342,700
Conard House	\$118,450	\$118,450	\$236,900
Temporary Contract Employees	\$1,427	\$1,426	\$2,853
OTHER			
Web Hosting and User Fee	\$103,853	\$103,853	\$207,706
Technology Equipment	\$21,866	\$10,000	\$31,866
Wireless Fees	\$11,500	\$11,500	\$23,000
Storage	\$5,000	\$5,000	\$10,000
Recruiting Fees	\$3,000	\$3,000	\$6,000
Professional Trainings/Retreat	\$3,500	\$3,500	\$7,000
Translation Services	\$18,144	\$5,000	\$23,144
OPERATING EXPENSE TOTAL	\$732,414	\$707,404	\$1,439,818

HSA #3

Capital Expenditure Detail
(Equipment and Remodeling Cost)

EQUIPMENT							Total
No.	ITEM/DESCRIPTION	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	7/1/26 - 6/30/27	7/1/23 - 6/30/25	
	RTZ PACECare Software						
1	Program Transition	\$72,000				\$72,000	
TOTAL EQUIPMENT COST		\$72,000				\$72,000	
REMODELING							Total
Description:		7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/25 - 6/30/26	7/1/26 - 6/30/27	7/1/23 - 6/30/25	
TOTAL REMODELING COST							
TOTAL CAPITAL EXPENDITURE (Equipment and Remodeling Cost)		\$72,000				\$72,000	
HSA #4							

Institute on Aging Program: Community Living Fund			Appendix B, Page 5
Purchase of Service Detail			
			Total
Purchase of Service Category	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
Global Purchase of Services	\$1,896,837	\$1,925,599	\$3,822,436
TOTAL PURCHASE OF SERVICE EXPENSE	\$1,896,837	\$1,925,599	\$3,822,436
HSA #4			

HUMAN SERVICES AGENCY SUBCONTRACTOR BUDGET SUMMARY

Name Catholic Charities		Term 7/1/19-6/30/23
(Check One) New Renewal ____ Modification ____ If modification, Effective Date of Mod. No. of Mod.		
Program: CLF Subcontract		
Budget Reference Page No.(s)		Total
Program Term	7/1/23 - 6/30/24	7/1/24 - 6/30/25
Expenditures		
Salaries & Benefits	\$116,000	\$116,000
Operating Expenses	\$14,391	\$14,391
Subtotal	\$130,391	\$130,391
Indirect Percentage (%)	15%	15%
Indirect Cost (Line 16 X Line 15)	\$19,559	\$19,559
Total Expenditures	\$149,950	\$149,950
HSA Revenues		
IOA CLF		
TOTAL HSA REVENUES		
Other Revenues		
Total Revenues		
Full Time Equivalent (FTE)		
Prepared by: _____		
HSA-CO Review Signature:		
HSA #1		

HUMAN SERVICES AGENCY SUBCONTRACTOR BUDGET SUMMARY

Name Self-Help for the Elderly		Term 7/1/23-6/30/25
(Check One) New Renewal ____ Modification ____ If modification, Effective Date of Mod. No. of Mod.		
Program: CLF Subcontract		
Budget Reference Page No.(s)		Total
Program Term	7/1/23-6/30/24	7/1/24-6/30/25
Expenditures		
Salaries & Benefits	\$140,000	\$140,000
Operating Expenses	\$9,000	\$9,000
Subtotal	\$149,000	\$149,000
Indirect Percentage (%)	15%	15%
Indirect Cost (Line 16 X Line 15)	\$22,350	\$22,350
Adjustment		
Total Expenditures	\$171,350	\$171,350
HSA Revenues		
IOA CLF		
TOTAL HSA REVENUES		
Other Revenues		
Total Revenues		
Full Time Equivalent (FTE)		

HUMAN SERVICES AGENCY SUBCONTRACTOR BUDGET SUMMARY

Name Conard House		Term 7/1/23-6/30/25
(Check One) New Renewal ____ Modification ____ If modification, Effective Date of Mod. No. of Mod.		
Program: CLF Subcontract		
Budget Reference Page No.(s)		Total
Program Term	7/1/23 - 6/30/24	7/1/24 - 6/30/25
Expenditures		
Salaries & Benefits	\$80,000	\$80,000
Operating Expenses	\$23,000	\$23,000
Subtotal	\$103,000	\$103,000
Indirect Percentage (%)	15%	15%
Indirect Cost (Line 16 X Line 15)	\$15,450	\$15,450
Total Expenditures	\$118,450	\$118,450
HSA Revenues		
IOA CLF		
TOTAL HSA REVENUES		
Other Revenues		
Total Revenues		
Full Time Equivalent (FTE)		
Prepared by: _____		
HSA-CO Review Signature:		
HSA #1		

HUMAN SERVICES AGENCY BUDGET SUMMARY BY PROGRAM

Name			Term
Institute on Aging			7/1/23 - 6/30/25
(Check One) New <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Modification <input type="checkbox"/>			
If modification, Effective Date of Mod. No. of Mod.			
Program: Public Guardian Housing Fund			
Budget Reference Page No.(s)			Total
Program Term	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
Expenditures			
Salaries & Benefits	\$24,750	\$24,750	\$49,500
Operating Expenses	\$19,500	\$19,500	\$39,000
Subtotal	\$44,250	\$44,250	\$88,500
Indirect Percentage (%)	15%	15%	15%
Indirect Cost (Line 16 X Line 15)	\$6,637	\$6,637	\$13,274
Purchase of Service	\$303,865	\$303,865	\$607,730
Total Expenditures	\$354,752	\$354,752	\$709,504
HSA Revenues			
General Funds	\$354,752	\$354,752	\$709,504
TOTAL HSA REVENUES	\$354,752	\$354,752	\$709,504
Other Revenues			
Total Revenues	\$354,752	\$354,752	\$709,504
Full Time Equivalent (FTE)			
Prepared by: Matthew Mouille		Date: 10/31/2022	
HSA-CO Review Signature:			
HSA #1			

Institute on Aging

Program: Public Guardian Housing Fund

Appendix B1, Page 2

Salaries & Benefits Detail

POSITION TITLE					7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
	Agency Totals		HSA Program		DAS	DAS	DAS
	Annual Full TimeSalary for FTE	Total FTE	% FTE funded by HSA (Max 100%)	Adjusted FTE	Budgeted Salary	Budgeted Salary	Budgeted Salary
Procurement Director, Roche	\$130,000	1.00	100%	5%	6,500.00	6,500.00	\$13,000
Business Manager; Mouille	120,000	1.00	100%	5%	6,000.00	6,000.00	\$12,000
Sr Director Care Management	\$ 146,000	1.00	100%	5%	7,300.00	7,300.00	\$29,200
TOTALS	\$ 396,000	3.00	300%	0.15	\$19,800	\$19,800	\$39,600
FRINGE BENEFIT RATE	25%						
EMPLOYEE FRINGE BENEFITS	\$99,000				4,950.00	4,950.00	\$9,900
TOTAL SALARIES & BENEFITS	\$495,000				24,750	\$24,750	\$49,500
HSA #2							

Institute on Aging
Program: Public Guardian Housing Fund

Appendix B1, Page 3

<u>Expenditure Category</u>	Total		
	<u>7/1/23 - 6/30/24</u>	<u>7/1/24 - 6/30/25</u>	<u>7/1/23 - 6/30/25</u>
Rental of Property	\$800	\$800	\$1,600
Utilities(Elec, Water, Gas, Phone, Garbage)	\$250	\$250	\$500
Office Supplies, Postage	\$344	\$344	\$688
Building Maintenance Supplies and Repair			
Printing and Reproduction			
Insurance	\$200	\$200	\$400
Staff Training / Recruiting			
Staff Travel-(Local and Out of Town)			
Rental of Equipment			
CONSULTANTS			
Temp Contractor	\$ 15,406	\$ 15,406	\$30,812
OTHER			
RTZ Updates			
Technology	\$2,500	\$2,500	\$5,000
TOTAL OPERATING EXPENSE	\$19,500	\$19,500	\$39,000
HSA #3			

Purchase of Service Detail

Purchase of Service Category	Total		
	7/1/23 - 6/30/24	7/1/24 - 6/30/25	7/1/23 - 6/30/25
Global Purchase of Services	\$303,865	\$303,865	\$607,730
TOTAL PURCHASE OF SERVICE EXPENSE	\$303,865	\$303,865	\$607,730
HSA #4			

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Appendix C – Method of Payment

- I. In accordance with Section 3 of the Grant Agreement, payments shall be made for actual costs incurred and reported for each month. Under no circumstances shall payment exceed the amount set forth in Section 5 Compensation of the Agreement.

- II. Grantee will submit all bills, invoices and related documentation in the format specified by SFHSA within 15 days after the month of service to SFHSA's web-based Contracts Administration, Reporting, and Billing Online (CARBON) System at: <https://contracts.sfhhsa.org>

 Grantee may submit bills, invoices and related documentation in the format specified by SFHSA via paper or email only upon special permission by their assigned Contract Manager.

- III. Grantee must sign up to receive payments electronically via Automated Clearing House (ACH). Remittance information will be provided through Paymode-X. Additional information and sign up is available at: <http://www.sfgov.org/ach>

- IV. The Executive Director or CFO must submit a letter of authorization designating specific users who will have access to CARBON to electronically submit and sign for invoices, budget revision requests, program reports, and view other information that is in CARBON.
 - A. Submittal of the invoice by designated authorized personnel with proper login credentials constitutes an electronic signature and certification of the invoice.
 - B. Authorized personnel with CARBON login credentials shall not share or internally reassign logins.
 - C. Grantee shall notify SFHSA Contract Manager immediately regarding any need for the restriction or termination of a previously authorized CARBON login.

- V. Invoices shall include actual expenditures incurred during the month, unless otherwise specified.
 - A. The invoice supplied shall include the total dollar amount claimed for the month.
 - B. There shall be no variance from the line item budget submitted which adversely affects program performance as contained in the Grantee's proposal and specified in the grant.
 - C. The invoice shall show by line item:
 1. Budgeted amount (per approved grant budget or modification)
 2. Expenses for invoice period
 3. Expenses year-to-date
 4. % of budget expended
 5. Remaining balance
 6. Adjustments, including advance payment recovery
 7. Program income when specified in the grant agreement.
 - D. Personnel expenditures will show same line item categories by position detail. Detail will show name of employee, position name, %FTE and budgeted salary.
 - E. With written approval from SFHSA Program/Contract Manager, Grantee may adjust items within the existing budget of the grant in accordance with SFHSA Office of Contract Management [Policy for Budget Line Item Revisions](#).
 - F. Supporting Documentation, except as discussed below, need not be submitted with the invoice. However, Grantee must keep and make available as requested such supporting documentation for all expenditures for which reimbursement is requested for all costs so claimed. All charges incurred shall be due and payable only after services have been

rendered, except as stated otherwise. Supporting documentation must be uploaded into CARBON and submitted along with the invoice.

- Documentation should be submitted with the invoice for all payroll expenses paid to budgeted personnel for the period covered by the invoice. Payroll information can be from a payroll service or a payroll ledger from the Grantee's accounting system
- For any and all non-recurring expenditures (e.g. equipment purchases/capital upgrades and building repair and upgrades) and/or items that exceed \$5,000, Grantee shall supply back-up documentation in the form of a paid invoice(s).
- Indirect costs shall not be applied to non-reoccurring expenses.
- All subcontracted services must be documented by submission of the subcontractor's paid invoice, regardless of dollar amount.
- If this grant agreement contains any Pass-Through funding requiring specific expense documentation from the source agency, Federal, State, Private or other then the following documentation shall also be included with each invoice submission:

Funding Agency: CFDA or other Identification #:

1. _____
2. _____
3. _____
4. _____

- VI. Following SFHSA verification of submitted Invoice with required documentation of incurred expenses via CARBON, SFHSA will authorize payment within 10 business days after receipt of the invoice.
- VII. Within 45 days after the end of the grant period, Grantee shall submit a final report reflecting actual expenditures, which will be supported by the Grantee's accounting records. If a refund is due SFHSA, it will be submitted with the final report.
- VIII. Advances or prepayments are allowable in order to meet the Grantee cash flow needs in certain unique circumstances. The Agency, at its sole discretion, shall make available to the Grantee upon written request an advance amount not to exceed two (2) months or 1/6th of the total annualized grant award, or as mutually agreed upon. The advanced sum shall be deducted from the Grantee's monthly invoices at an equal rate each month that will enable repayment by the tenth month of the fiscal year. For a twelve-month grant the rate of repayment of the advance will be 1/10th per month from July to April. Requests for advance payment will be granted on a case-by-case basis and are not intended to be a regular "automatic" procedure. Approval will be a consensus of Program and Contract Staff.

Once the grant is certified, the Grantee, prior to distribution of any advanced payment, must fulfill the following conditions:

1. All contractual compliance requirements must be current, i.e., reports submitted and approved, corrective actions resolved, business tax and insurance certificates in place, prompt and fully documented billings.
 2. The Grantee shall submit a written request with a narrative justification that fully describes the unique circumstances to the Program Manager and Contract Manager for review and approval.
 3. Final invoice from the preceding fiscal year must be received prior to advance distribution.
- IX. Timely Submission of Reports – If reports/documents are required, Grantee shall submit these reports prior to submitting invoices. Failure to submit required reports/documents in CARBON by specified deadlines may result in withholding of grant payments.
- X. Timely and Complete Submission of Time Study – Failure to submit required time study by specified deadlines may result in withholding of grant payments.

Appendix D--Interests in Other City Grants

City Department or Commission	Date of Grant	Amount of Grant
San Francisco Human Services Agency - Support at Home	1/1/21 – 6/30/25	\$8,297,729
San Francisco Human Services Agency – Community Living Fund	7/1/18 – 6/30/23	\$21,149,486
San Francisco Human Services Agency – Adult Day Program	7/1/21 – 6/30/24	\$352,869
San Francisco Human Services Agency – Alzheimer’s Day Care Resource Center	7/1/21 – 6/30/24	\$364,323
San Francisco Human Services Agency – Case Management	7/1/21 – 6/30/23	\$1,127,832
San Francisco Human Services Agency – Center for Elderly Suicide Prevention (CESP)	7/1/21 – 6/30/25	\$1,856,776
San Francisco Human Services Agency – ADRC Coordinator	1/1/21 – 6/30/24	\$486,140
San Francisco Human Services Agency – Elder Abuse Forensic Center	7/1/21 – 6/30/25	\$663,372
San Francisco Human Services Agency – Elder Abuse Prevention Services	7/1/21 – 6/30/25	\$634,106
San Francisco Human Services Agency – Home Safe	7/1/21 – 6/30/23	\$4,438,784
San Francisco Human Services Agency – Clinical Supervision Collaborative	7/1/21 – 6/30/23	\$964,174
San Francisco Human Services Agency – Home Delivered Meals-Young Adults with Disabilities	7/1/21 – 6/30/25	\$1,522,400
San Francisco Human Services Agency – Elder & Disable Death Review Team	7/1/21 – 6/30/25	\$396,417
San Francisco Human Services Agency – High Risk Self Neglect Multi-Disciplinary Team	7/1/21 – 6/30/25	\$339,982
San Francisco Human Services Agency – Temporary Respite Caregiver Support Program	9/1/22 – 6/30/26	\$3,137,948

Appendix E – Permitted Subcontractors

1. Catholic Charities
2. Self-Help for the Elderly
3. Conard House

APPENDIX F



City and County of San Francisco

Business Associate Agreement

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

RECITALS

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

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

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

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

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

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

1. Definitions.

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

APPENDIX F



City and County of San Francisco

Business Associate Agreement

b. Breach Notification Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.

c. Business Associate is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information received from a covered entity, but other than in the capacity of a member of the workforce of such covered entity or arrangement, and shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

d. Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits any information in electronic form in connection with a transaction covered under HIPAA Regulations, and shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

e. Data Aggregation means the combining of Protected Information by the BA with the Protected Information received by the BA in its capacity as a BA of another CE, to permit data analyses that relate to the health care operations of the respective covered entities, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

f. Designated Record Set means a group of records maintained by or for a CE, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

g. Electronic Protected Health Information means Protected Health Information that is maintained in or transmitted by electronic media and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 C.F.R. Section 160.103. For the purposes of this BAA, Electronic PHI includes all computerized data, as defined in California Civil Code Sections 1798.29 and 1798.82.

h. Electronic Health Record means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.

i. Health Care Operations shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

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

k. Protected Health Information or PHI means any information, including electronic PHI, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or

APPENDIX F



City and County of San Francisco

Business Associate Agreement

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

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

APPENDIX F



City and County of San Francisco

Business Associate Agreement

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

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

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

f. Appropriate Safeguards. BA shall take the appropriate security measures to protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of the CE, and shall prevent any use or disclosure of PHI other than as permitted by the Agreement or this

APPENDIX F



City and County of San Francisco

Business Associate Agreement

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).

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

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

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

APPENDIX F



City and County of San Francisco

Business Associate Agreement

j. Amendment of Protected Information. Within ten (10) days of a request by CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA and its agents and subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment or other documentation to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

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

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

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

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

APPENDIX F



City and County of San Francisco

Business Associate Agreement

o. Breach Pattern or Practice by Business Associate's Subcontractors and Agents.

Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(iii), if the BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or this BAA, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the contractual arrangement with its subcontractor or agent, if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or this BAA within five (5) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

3. Termination.

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

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

c. Effect of Termination. Upon termination of the Agreement and this BAA for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of Section 2 of this BAA to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(2)(ii)(J)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI. Per the Secretary's guidance, the City will accept destruction of electronic PHI in accordance with the standards enumerated in the NIST SP 800-88, Guidelines for Media Sanitization. The City will accept destruction of PHI contained in paper records by shredding, burning, pulping, or pulverizing the records so that the PHI is rendered unreadable, indecipherable, and otherwise cannot be reconstructed.

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

APPENDIX F



City and County of San Francisco

Business Associate Agreement

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 access, use or disclosure of PHI by BA or its subcontractors or agents, then BA shall reimburse CE in the amount of such fine or penalties or damages within thirty (30) calendar days from City's written notice to BA of such fines, penalties or damages.

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

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

Office of Compliance and Privacy Affairs
 San Francisco Department of Public Health
 101 Grove Street, Room 330, San Francisco, CA 94102
 Email: compliance.privacy@sfdph.org
 Hotline (Toll-Free): 1-855-729-6040

APPENDIX G

Data Access Agreement

Article 1 Access

1.1 Revision to Scope of Access (RSA):

Any added access may be granted by the City to Grantee and each Grantee Data User through a Revision to Scope of Access in writing and executed by both parties. Any Revision to Scope of Access shall be considered a part of and incorporated into this Agreement, governed by all its terms, by reference.

1.2 Primary and Alternate Grantee Site Administrator.

Before System(s) access is granted, Grantee must appoint a primary and alternate Grantee Site Administrator responsible for System(s) access tasks, including but not limited to the following:

1.2.1 Coordinating with City to obtain approval by way of the Account Provisioning Request documents and/or Data Set Request documents;

1.2.2 Providing Grantee Data User(s) details to the City;

1.2.3 Ensuring that Grantee Data User(s) complete required SFDPH and/or other required trainings annually;

1.2.4 Ensuring that Grantee Data User(s) understand and execute SFDPH's data access confidentiality agreement; and

1.2.5 Provisioning and deprovisioning Grantee Data Users as detailed herein. To start the process, the Grantee Site Administrator must contact the City Site Administrator.

1.3 SFDPH IT Service Desk.

For new provisioning requests, only City Site Administrators are authorized to contact the SFDPH IT Service Desk. The City reserves the right to decline any call placed by other than the City Site Administrator. Individual Grantee Data Users are not authorized to contact the SFDPH IT Service Desk.

1.4 Deprovisioning Schedule.

Grantee, through the Grantee Site Administrator, has sole responsibility to deprovision Grantee Data Users from the System(s) as appropriate on an ongoing basis. Grantee must immediately deprovision a Grantee Data User upon any event ending that Data User's need to access the System(s), including job duty change and/or termination. Grantee remains liable for the conduct of Grantee Data Users until deprovisioned. When deprovisioning employees via the City Site Administrator, Grantee must maintain evidence that the City Site Administrator was notified.

1.5 Active Directory.

Grantee Data Users will need an SFDPH Active Directory account in order to access each System(s). These Active Directory Accounts will be created as part of the provisioning process.

1.6 Role Based Access.

Each Grantee Data User's access to the System(s) will be role-based and access is limited to that necessary for treatment, payment, and health care operations. The City will assign Grantee Data User

roles upon provisioning and reserves the right to deny, revoke, limit, or modify Grantee Data User's access acting in its sole discretion.

1.7 Training Requirements.

Before System(s) access is granted, and annually thereafter, each Grantee Data User must complete SFDPH compliance, privacy, and security training. Grantee must maintain written records evidencing such annual training for each Grantee Data User and provide copies upon request to the City. For questions about how to complete SFDPH's compliance, privacy, and security training, contact Compliance.Privacy@sfdph.org, (855) 729-6040.

Before Grantee Data User first access to System(s), system-specific training must be completed. For training information, Grantee Site Administrator may contact the SFDPH IT Service Desk,

1.8 Grantee Data User Confidentiality Agreement.

Before System(s) access is granted, as part of SFDPH's compliance, privacy, and security training, each Grantee Data User must complete SFDPH's individual user confidentiality, data security and electronic signature agreement form. The agreement must be renewed annually.

1.9 Corrective Action.

Grantee shall take corrective action, including but not limited to termination and/or suspension of any System(s) access by any Grantee Data User who acts in violation of this Agreement and/or applicable regulatory requirements.

1.10 User ID and Password.

Each Grantee Data User will be assigned or create a User ID and password. Grantee and each Grantee Data User shall protect the confidentiality of User IDs and passwords and shall not divulge them to any other person(s). Grantee is responsible for the security of the User IDs and passwords issued to or created by Grantee Data Users and is liable for any misuse.

1.11 Notification of Compromised Password.

In the event that a password assigned to or created by an Grantee Data User is compromised or disclosed to a person other than the Grantee Data User, Grantee shall upon learning of the compromised password immediately notify the City, at Compliance.Privacy@sfdph.org, (855) 729-6040. Grantee is liable for any such misuse. Grantee's failure to monitor each Grantee Data User's ID and/or password use shall provide grounds for the City to terminate and/or limit Grantee's System(s) access.

1.12 Multi Factor Authentication.

Grantee and each Grantee Data User must use multi-factor authentication as directed by the City to access the System(s).

1.13 Qualified Personnel.

Grantee shall allow only qualified personnel under Grantee's direct supervision to act as Grantee Data Users with access to the System(s).

1.14 Workstation/Laptop encryption.

All workstations and laptops that process and/or store City Data must be encrypted using a current industry standard algorithm. The encryption solution must be full disk unless approved by the SFDPH Information Security Office.

1.15 Server Security.

Servers containing unencrypted City Data must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

1.16 Removable media devices.

All electronic files that contain City Data must be encrypted using a current industry standard algorithm when stored on any removable media or portable device (i.e. USB thumb drives, CD/DVD, smart devices tapes etc.).

1.17 Antivirus software.

All workstations, laptops and other systems that process and/or store City Data must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.

1.18 Patch Management.

All workstations, laptops and other systems that process and/or store City Data must have operating system and application security patches applied, with system reboot if necessary. There must be a documented patch management process that determines installation timeframe based on risk assessment and vendor recommendations.

1.19 System Timeout.

The system must provide an automatic timeout, requiring reauthentication of the user session after no more than 20 minutes of inactivity.

1.20 Warning Banners.

All systems containing City Data must display a warning banner each time a user attempts access, stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.

1.21 Transmission encryption.

All data transmissions of City Data outside the Grantee's secure internal network must be encrypted using a current industry standard algorithm. Encryption can be end to end at the network level, or the data files containing City Data can be encrypted. This requirement pertains to any type of City Data in motion such as website access, file transfer, and e-mail.

1.22 No Faxing/Mailing.

City Data may not be faxed or mailed.

1.23 Intrusion Detection.

All systems involved in accessing, holding, transporting, and protecting City Data that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

of the City.

1.24 Security of PHI.

Grantee is solely responsible for maintaining data security policies and procedures, consistent with those of the City that will adequately safeguard the City Data and the System. Upon request, Grantee will provide such security policies and procedures to the City. The City may examine annually, or in response to a security or privacy incident, Grantee's facilities, computers, privacy and security policies and

procedures and related records as may be necessary to be assured that Grantee is in compliance with the terms of this Agreement, and as applicable HIPAA, the HITECH Act, and other federal and state privacy and security laws and regulations. Such examination will occur at a mutually acceptable time agreed upon by the parties but no later than ten (10) business days of Grantee's receipt of the request.

1.25 Data Security and City Data

Grantee shall provide security for its networks and all internet connections consistent with industry best practices, and will promptly install all patches, fixes, upgrades, updates and new versions of any security software it employs. For information disclosed in electronic form, Grantee agrees that appropriate safeguards include electronic barriers (e.g., "firewalls", Transport Layer Security (TLS), Secure Socket Layer [SSL] encryption, or most current industry standard encryption, intrusion prevention/detection or similar barriers).

1.26 Data Privacy and Information Security Program.

Without limiting Grantee's obligation of confidentiality as further described herein, Grantee shall be responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (i) ensure the security and confidentiality of the City Data; (ii) protect against any anticipated threats or hazards to the security or integrity of the City Data; (iii) protect against unauthorized disclosure, access to, or use of the City Data; (iv) ensure the proper disposal of City Data; and, (v) ensure that all of Grantee's employees, agents, and subcontractors, if any, comply with all of the foregoing. In no case shall the safeguards of Grantee's data privacy and information security program be less stringent than the safeguards and standards recommended by the National Institute of Standards and Technology (NIST) Cybersecurity Framework and the Health Information Technology for Economic and Clinical Health Act (HITECH).

1.27 Disaster Recovery.

Grantee must establish a documented plan to protect the security of electronic City Data in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this agreement for more than 24 hours.

1.28 Supervision of Data.

City Data in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by a Grantee Data User authorized to access the information. City Data in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

1.29 As Is Access.

The City provides Grantee and each Grantee Data User with System(s) access on an "as is" basis with no guarantee as to uptime, accessibility, or usefulness. To the fullest extent permissible by applicable law, the City disclaims all warranties, express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, title and non-infringement.

1.30 No Technical or Administrative Support.

Except as provided herein, the City will provide no technical or administrative support to Grantee or Grantee Data Users for System(s) access.

1.31 City Audit of Grantee and Grantee Data Users.

The City acting in its sole discretion may audit Grantee and Grantee Data Users at any time. If an audit reveals an irregularity or security issue, the City may take corrective action including but not limited to termination of such Grantee's and/or Grantee Data User's access to the System(s) permanently or until the City determines that all irregularities have been satisfactorily cured. Grantee and each Grantee Data User understands that the City may create and review an audit trail for each Grantee Data User, including but not limited to, noting each Grantee Data User's ID(s), the patient information accessed, and/or the date accessed. Grantee and each Grantee Data User understands that any inappropriate access or use of patient information, as determined by the City, may result in the temporary and/or permanent termination of Grantee's or such Grantee Data User's access to the System(s). Grantee remains liable for all inappropriate System(s) access, misuse and/or breach of patient information, whether in electronic or hard-copy form.

1.32 Minimum Necessary.

Grantee and each Grantee Data User shall safeguard the confidentiality of all City Data that is viewed or obtained through the System(s) at all times. Grantee and each Grantee Data User shall access patient information in the System(s) only to the minimum extent necessary for its assigned duties and shall only disclose such information to persons authorized to receive it, as minimally necessary for treatment, payment and health care operations.

1.33 No Re-Disclosure or Reporting.

Grantee may not in any way re-disclose SFDPH Data or otherwise prepare reports, summaries, or any other material (in electronic or hard-copy format) regarding or containing City Data for transmission to any other requesting individuals, agencies, or organizations without prior written City approval and where such re-disclosure is otherwise permitted or required by law.

1.34 Health Information Exchange.

If Grantee is qualified to enroll in a health information exchange, the City encourages Grantee to do so in order to facilitate the secure exchange of data between Grantee's electronic health record system (EHR) and the City's Epic EHR.

1.35 Subcontracting.

Grantee may not subcontract any portion of Data Access Agreement, except upon prior written approval of City. If the City approves a subcontract, Grantee remains fully responsible for its subcontractor(s) throughout the term and/or after expiration of this Agreement. All Subcontracts must incorporate the terms of this Data Access Agreement. To the extent that any subcontractor would have access to a System, each such subcontractor's access must be limited and subject to the same governing terms to the same extent as Grantee's access. In addition, each contract between Grantee and that subcontractor must, except as the City otherwise agrees, include a Business Associate Agreement requiring such subcontractor to comply with all regulatory requirements regarding third-party access, and include a provision obligating that subcontractor to (1) defend, indemnify, and hold the City harmless in the event of a data breach, (2) provide cyber and technology errors and omissions insurance, and (3) ensure that such data has been destroyed, returned, and/or protected as provided by HIPAA at the expiration of the subcontract term.

Article 2 Indemnity

2.1 Medical Malpractice Indemnification.

Grantee recognizes that the System(s) is a sophisticated tool for use only by trained personnel, and it is not a substitute for competent human intervention and discretionary thinking. Therefore, if providing patient treatment, Grantee agrees that it will:

- (a) Read information displayed or transmitted by the System accurately and completely;
- (b) Ensure that Grantee Data Users are trained on the use of the System;
- (c) Be responsible for decisions made based on the use of the System;
- (d) Verify the accuracy of all information accessed through the System using applicable standards of good medical practice to no less a degree than if Grantee were using paper records;
- (e) Report to the City as soon as reasonably practicable all data errors and suspected problems related to the System that Grantee knows or should know could adversely affect patient care;
- (f) Follow industry standard business continuity policies and procedures that will permit Grantee to provide patient care in the event of a disaster or the System unavailability;
- (g) Use the System only in accordance with applicable standards of good medical practice.

Grantee agrees to indemnify, hold harmless and defend City from any claim by or on behalf of any patient, or by or on behalf of any other third party or person claiming damage by virtue of a familial or financial relationship with such a patient, regardless of the cause, if such claim in any way arises out of or relates to patient care or outcomes based on Grantee's or a Grantee Data User's System access.

Data or System Breach Indemnification

Grantee agrees to defend, indemnify, and hold the City harmless from any claim by or on behalf of any patient, or by or on behalf of any other third party or person claiming damage by virtue of a familial or financial relationship with such a patient, regardless of the cause, in the event of a data breach.

Article 3 Proprietary Rights and Data Breach

3.1 Ownership of City Data.

The Parties agree that as between them, all rights, including all intellectual property rights in and to the City Data and any derivative works of the City Data shall remain the exclusive property of the City.

3.2 Data Breach; Loss of City Data.

The Grantee shall notify City immediately by telephone call plus email upon the discovery of a breach (as herein). For purposes of this Section, breaches and security incidents shall be treated as discovered by Grantee as of the first day on which such breach or security incident is known to the Grantee, or, by exercising reasonable diligence would have been known to the Grantee. Grantee shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is an employee or agent of the Grantee.

Grantee shall take:

- i. prompt corrective action to mitigate any risks or damages involved with the

- breach or security incident and to protect the operating environment; and
- ii. any action pertaining to a breach required by applicable federal and state laws.

3.2.1 Investigation of Breach and Security Incidents: The Grantee shall immediately investigate such breach or security incident. As soon as the information is known and shall inform the City of:

- i. what data elements were involved, and the extent of the data disclosure or access involved in the breach, including, specifically, the number of individuals whose personal information was breached; and
- ii. a description of the unauthorized persons known or reasonably believed to have improperly used the City Data and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the City Data, or to whom it is known or reasonably believed to have had the City Data improperly disclosed to them; and
- iii. a description of where the City Data is believed to have been improperly used or disclosed; and
- iv. a description of the probable and proximate causes of the breach or security incident; and
- v. whether any federal or state laws requiring individual notifications of breaches have been triggered.

3.2.2 Written Report: Grantee shall provide a written report of the investigation to the City as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a complete, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence or further disclosure of data regarding such breach or security incident.

3.2.3 Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Grantee is considered only a custodian and/or non-owner of the City Data, Grantee shall, at its sole expense, and at the sole election of City, either:

- i. make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Grantee shall inform the City of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
- ii. cooperate with and assist City in its notification (including substitute notification) to the individuals affected by the breach.

3.2.4 Sample Notification to Individuals: If notification to individuals is required, and regardless of whether Grantee is considered only a custodian and/or non-owner of the City Data, Grantee shall, at its sole expense, and at the sole election of City, either:

- i. electronically submit a single sample copy of the security breach notification as required to the state or federal entity and inform the City of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
- ii. cooperate with and assist City in its submission of a sample copy of the

notification to the Attorney General.

3.3 Media Communications

City shall conduct all media communications related to such Data Breach, unless in its sole discretion, City directs Grantee to do so.

Attachment 1 to Appendix G System Specific Requirements

I. For Access to SFDPH Epic through Care Link the following terms shall apply:

A. SFDPH Care Link Requirements:

1. Connectivity.

- a) Grantee must obtain and maintain connectivity and network configuration and required hardware and equipment in accordance with specifications provided by Epic and must update the configuration of all first and third-party software as required. Technical equipment and software specifications for accessing SFDPH Care Link will change over time. Current required browser, system and connection requirements can be found on the Target Platform Roadmap and Target Platform Notes sections of the Epic Galaxy website galaxy.epic.com. Grantee is responsible for all associated costs. Grantee shall ensure that Grantee Data Users access the System only through equipment owned or leased and maintained by Grantee.

2. Compliance with Epic Terms and Conditions.

- a) Grantee will at all times access and use the System strictly in accordance with the Epic Terms and Conditions. The following Epic Care Link Terms and Conditions are embedded within the SFDPH Care Link application, and each Data User will need to agree to them electronically upon first sign-in before accessing SFDPH Care Link:

3. Epic-Provided Terms and Conditions

- a) Some short, basic rules apply to you when you use your EpicCare Link account. Please read them carefully. The Epic customer providing you access to EpicCare Link may require you to accept additional terms, but these are the rules that apply between you and Epic.
- b) Epic is providing you access to EpicCare Link, so that you can do useful things with data from an Epic customer's system. This includes using the information accessed through your account to help facilitate care to patients shared with an Epic customer, tracking your referral data, or otherwise using your account to further your business interests in connection with data from an Epic customer's system. However, you are not permitted to use your access to EpicCare Link to help you or another organization develop software that is similar to EpicCare Link. Additionally, you agree not to share your account information with anyone outside of your organization.

II. For Access to SFDPH Epic through Epic Hyperspace and Epic Hyperdrive the following terms shall apply:

A. SFDPH Epic Hyperspace and Epic Hyperdrive:

1. Connectivity.

- a) Grantee must obtain and maintain connectivity and network configuration and required hardware and equipment in accordance with specifications provided by Epic and SFDPH and must update the configuration of all first and third-party software as required. Technical equipment and software specifications for accessing SFDPH Epic Hyperspace will change over time. Epic Hyperdrive is a web-based platform that will replace Epic Hyperspace in the future. You may request a copy of current required browser, system and connection requirements from the SFDPH IT team. Grantee is responsible for all

associated costs. Grantee shall ensure that Grantee Data Users access the System only through equipment owned or leased and maintained by Grantee.

2. Application For Access and Compliance with Epic Terms and Conditions.

- a) Prior to entering into agreement with SFDPH to access SFDPH Epic Hyperspace or Epic Hyperdrive, Grantee must first complete an Application For Access with Epic Systems Corporation of Verona, WI. The Application For Access is found at: <https://userweb.epic.com/Forms/AccessApplication>. Epic Systems Corporation must notify SFDPH, in writing, of Grantee's permissions to access SFDPH Epic Hyperspace or Epic Hyperdrive prior to completing this agreement. Grantee will at all times access and use the system strictly in accordance with the Epic Terms and Conditions.

III. For Access to SFDPH myAvatar through WebConnect and VDI the following terms shall apply:

A. SFDPH myAvatar via WebConnect and VDI:

1. Connectivity.

- a. Grantee must obtain and maintain connectivity and network configuration and required hardware and equipment in accordance with specifications provided by SFDPH and must update the configuration of all first and third-party software as required. Technical equipment and software specifications for accessing SFDPH myAvatar will change over time. You may request a copy of current required browser, system and connection requirements from the SFDPH IT team. Grantee is responsible for all associated costs. Grantee shall ensure that Grantee Data Users access the System only through equipment owned or leased and maintained by Grantee.

2. Information Technology (IT) Support.

- a. Grantee must have qualified and professional IT support who will participate in quarterly CBO Technical Workgroups.

3. Access Control.

- a. Access to the BHS Electronic Health Record is granted based on clinical and business requirements in accordance with the Behavioral Health Services EHR Access Control Policy (6.00-06). The Access Control Policy is found at: <https://www.sfdph.org/dph/files/CBHSPolProcMnl/6.00-06.pdf>
- b. Each user is unique and agrees not to share accounts or passwords.
- c. Applicants must complete the myAvatar Account Request Form found at https://www.sfdph.org/dph/files/CBHSdocs/BHISdocs/UserDoc/Avatar_Account_Request_Form.pdf
- d. Applicants must complete the credentialing process in accordance with the DHCS MHSUDS Information Notice #18-019.
- e. Applicants must complete myAvatar Training.
- f. Level of access is based on "Need to Know", job duties and responsibilities.

Attachment 2 to Appendix G

Protected Information Destruction Order Purge Certification - Contract ID # 1000022498

In accordance with section 3.c (Effect of Termination) of the Business Associate Agreement, attached as Appendix F to the Agreement between the City and Grantee dated July 16, 2021 ("Agreement"), the City hereby directs Grantee to destroy all Protected Information that Grantee and its agents and subcontractors (collectively "Contractor") still maintain in any form. Contractor may retain no copies of destroyed Protected Information." Destruction must be in accordance with the guidance of the Secretary of the U.S. Department of Health and Human Services ("Secretary") regarding proper destruction of PHI.

Electronic Data: Per the Secretary's guidance, the City will accept destruction of electronic Protected Information in accordance with the standards enumerated in the NIST SP 800-88, Guidelines for Data Sanitization ("NIST").

Hard-Copy Data: Per the Secretary's guidance, the City will accept destruction of Protected Information contained in paper records by shredding, burning, pulping, or pulverizing the records so that the Protected Information is rendered unreadable, indecipherable, and otherwise cannot be reconstructed.

Contractor hereby certifies that Contractor has destroyed all Protected Information as directed by the City in accordance with the guidance of the Secretary of the U.S. Department of Health and Human Services ("Secretary") regarding proper destruction of PHI.

So Certified

Signature

Title: _____

Date: _____

Contractor Name:		Contractor City Vendor ID	
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PRIVACY ATTESTATION

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

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

I. All Contractors.

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

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

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

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

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

EXCEPTION(S) APPROVED by OCPA	Name (print)		Signature		Date	
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Contractor Name:		Contractor City Vendor ID	
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DATA SECURITY ATTESTATION

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

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

I. All Contractors.

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

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

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

EXCEPTION(S) APPROVED by OCPA	Name (print)		Signature		Date	
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