

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

Second Amendment

THIS AMENDMENT (this “Amendment”) is made as of July 1, 2021, in San Francisco, California, by and between **Helios Healthcare LLC** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

Recitals

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

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

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a Request for Proposal (RFP 30-2017) issued on November 28, 2017, in which City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number PSC 43871-17/18 on 5/18/20; and

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

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

Article 1 Definitions

The following definitions shall apply to this Amendment:

1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated July 1, 2018 (contract ID # 1000009327), between Contractor and City as amended by the:

First Amendment, dated May 1, 2021.

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

Article 2 Modifications to the Agreement.

The Agreement is hereby modified as follows:

2.1 **Term of the Agreement.** *Section 2 Term of the Agreement currently reads as follows:*

2.1 **Term.** The term of this Agreement shall commence on July 1, 2018 and expire on December 31, 2021, unless earlier terminated as otherwise provided herein.

2.2 **The Options to Extend.** The City has one option to renew the Agreement for a period of January 1, 2022 through June 30, 2028. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

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

2.1 **Term.** The term of this Agreement shall commence on July 1, 2018 and expire on June 30, 2028 unless earlier terminated as otherwise provided herein.

2.2 **Payment.** *Section 3.3.1 Payment of the Agreement currently reads as follows:*

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Health, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Nine Million Six Hundred Sixty Four Thousand Four Hundred Dollars (\$9,664,400)**. The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments.

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

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Health, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Twenty Seven Million Nine Hundred Four Thousand Three Hundred Twenty Five (\$27,904,325)**. The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments.

2.3 Appendix B is hereby replaced in its entirety by Appendix B, attached to this Amendment and fully incorporated within the Agreement.

2.4 Appendix B-1 is hereby replaced in its entirety by Appendix B, attached to this Amendment and fully incorporated within the Agreement.

2.5 Appendix D is hereby replaced in its entirety by Appendix D, attached to this Amendment and fully incorporated within the Agreement.

2.5 Appendix F is hereby replaced in its entirety by Appendix F, attached to this Amendment and fully incorporated within the Agreement.

Article 1 Effective Date

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

Article 2 Legal Effect

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

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

CITY
Recommended by:

CONTRACTOR
Helios Healthcare

Grant Colfax, MD Date
Director of Health
Department of Public Health

Elena Mashkevich *7/2/2021*

Elena Mashkevich Date

Supplier ID number: 0000018905

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Louise S. Simpson Date
Deputy City Attorney

Approved:

Sailaja Kurella Date
Acting Director, Office of Contract
Administration, and Purchaser

Appendix B Calculation of Charges

1. Method of Payment

A. Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to the Contract Administrator and the CONTROLLER and must include the Contract Progress Payment Authorization number or Contract Purchase Number. All amounts paid by CITY to CONTRACTOR shall be subject to a audit by CITY. The CITY shall make monthly payments as described below. Such payments shall not exceed those amounts stated in and shall be in accordance with the provisions of Section 3.3, COMPENSATION, of this Agreement.

Compensation for all SERVICES provided by CONTRACTOR shall be paid in the following manner. For the purposes of this Section, "General Fund" shall mean all those funds which are not Work Order or Grant funds. "General Fund Appendices" shall mean all those appendices which include General Fund monies.

(1) Fee For Service (Monthly Reimbursement by Certified Units at Budgeted Unit Rates)

CONTRACTOR shall submit monthly invoices in the format attached, Appendix F, and in a form acceptable to the Contract Administrator, by the fifteenth (15th) calendar day of each month, based upon the number of units of service that were delivered in the preceding month. All deliverables associated with the SERVICES defined in Appendix A times the unit rate as shown in the appendices cited in this paragraph shall be reported on the invoice(s) each month. All charges incurred under this Agreement shall be due and payable only after SERVICES have been rendered and in no case in advance of such SERVICES.

(2) Cost Reimbursement (Monthly Reimbursement for Actual Expenditures within Budget):

CONTRACTOR shall submit monthly invoices in the format attached, Appendix F, and in a form acceptable to the Contract Administrator, by the fifteenth (15th) calendar day of each month for reimbursement of the actual costs for SERVICES of the preceding month. All costs associated with the SERVICES shall be reported on the invoice each month. All costs incurred under this Agreement shall be due and payable only after SERVICES have been rendered and in no case in advance of such SERVICES.

B. Final Closing Invoice

(1) Fee For Service Reimbursement:

A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of each fiscal year of the Agreement, and shall include only those SERVICES rendered during the referenced period of performance. If SERVICES are not invoiced during this period, all unexpended funding set aside for this Agreement will revert to CITY. CITY'S final reimbursement to the CONTRACTOR at the close of the Agreement period shall be adjusted to conform to actual units certified multiplied by the unit rates identified in Appendix B attached hereto, and shall not exceed the total amount authorized and certified for this Agreement.

(2) Cost Reimbursement:

A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of each fiscal year of the Agreement, and shall include only those costs incurred during the referenced period of performance. If costs are not invoiced during this period, all unexpended funding set aside for this Agreement will revert to CITY.

C. Payment shall be made by the CITY to CONTRACTOR at the address specified in the section entitled "Notices to Parties."

2. Program Budget and Final Invoice

A. Program Budget is listed below and is attached hereto.

Appendix B-1 Idylwood Care Center - Rates

B. COMPENSATION

Compensation shall be made in monthly payments on or before the 30th day after the DIRECTOR, in his or her sole discretion, has approved the invoice submitted by CONTRACTOR. The breakdown of costs and sources of revenue associated with this Agreement appears in Appendix B, Cost Reporting/Data Collection (CR/DC) and Program Budget, attached hereto and incorporated by reference as though fully set forth herein. The maximum dollar obligation of the CITY under the terms of this Agreement shall not Twenty Seven Million Nine Hundred Four Thousand Three Hundred Twenty Five (\$27,904,325). for the period of July 1, 2018 through June 30, 2028.

CONTRACTOR understands that, of this maximum dollar obligation, \$2,043,600 is included as a contingency amount and is neither to be used in Appendix B, Budget, or available to CONTRACTOR without a modification to this Agreement executed in the same manner as this Agreement or a revision to Appendix B, Budget, which has been approved by the Director of Health. CONTRACTOR further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable CITY and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by the Controller. CONTRACTOR agrees to fully comply with these laws, regulations, and policies/procedures.

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

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

July 1, 2018 through June 30, 2019	\$2,493,515
July 1, 2019 through June 30, 2020	\$2,462,764
July 1, 2020 through June 30, 2021	\$2,564,446
July 1, 2021 through June 30, 2022	\$2,620,000
July 1, 2022 through June 30, 2023	\$2,620,000
July 1, 2023 through June 30, 2024	\$2,620,000
July 1, 2024 through June 30, 2025	\$2,620,000
July 1, 2025 through June 30, 2026	\$2,620,000
July 1, 2026 through June 30, 2027	\$2,620,000
July 1, 2027 through June 30, 2028	<u>\$2,620,000</u>
Total	\$25,860,725
Contingency (12% from 1/1/22-6/30/28)	<u>\$2,043,600</u>
Grand Total	<u>\$27,904,325</u>

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

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

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

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

F. CONTRACTOR understands and agrees that should the CITY'S maximum dollar obligation under this Agreement include State or Federal Medi-Cal revenues, CONTRACTOR shall expend such revenues in the provision of SERVICES to Medi-Cal eligible clients in accordance with CITY, State, and Federal Medi-Cal regulations. Should CONTRACTOR fail to expend budgeted Medi-Cal revenues herein, the CITY'S maximum dollar obligation to CONTRACTOR shall be proportionally reduced in the amount of such unexpended revenues. In no event shall State/Federal Medi-Cal revenues be used for clients who do not qualify for Medi-Cal reimbursement.

G. CONTRACTOR further understands and agrees that any State or Federal Medi-Cal funding in this Agreement subject to authorized Federal Financial Participation (FFP) is an estimate, and actual amounts will be determined based on actual services and actual costs, subject to the total compensation amount shown in this Agreement.

Helios Healthcare, LLC

FY 21-22

Facility

Idylwood Care Center

SNF level

Service Code	Rate
SNF1	\$ 117.00
Neuro/SNF2	\$ 140.00
Neuro Single/SNF3	\$ 170.00
1:1/Line of Sight x 1 shift/SNF-N5	\$ 264.00
1:1/Line of Sight x 2 shift/SNF-N6	\$ 396.00
1:1/Line of Sight x 3 shift/SNF-N7	\$ 529.00
BH/SNFBH	\$ 306.00

Estimate UDC – 46

Estimate UOS- 15086

APPENDIX D

Data Access and Sharing Terms

Article 1 Access

1.1 Revision to Scope of Access (RSA):

Any added access may be granted by the City to Agency and each Agency 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 Agency Site Administrator.

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

1.2.1 Completing and obtaining City approval of the Account Provisioning Request documents and/or Data Set Request documents;

1.2.2 Communicating with the SFDPH IT Service Desk;

1.2.3 Providing Agency Data User(s) details to the City;

1.2.4 Ensuring that Agency Data User(s) complete required SFDPH trainings annually;

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

1.2.6 Provisioning and deprovisioning Agency Data Users as detailed herein. To start the process, the Agency Site Administrator must contact the SFDPH IT Service Desk at 628-206-7378, dph.helpdesk@sfdph.org.

1.3 SFDPH IT Service Desk.

For new provisioning requests, only Agency 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 Agency Site Administrator. Individual Agency Data Users are not authorized to contact the SFDPH IT Service Desk.

1.4 Deprovisioning Schedule.

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

1.5 Active Directory.

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

1.7 Training Requirements.

Before System(s) access is granted, and annually thereafter, each Agency Data User must complete SFDPH compliance, privacy, and security training. Agency must maintain written records evidencing such annual training for each Agency 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 Agency Data User first access to System(s), system-specific training must be completed. For training information, Agency Site Administrator may contact the SFDPH IT Service Desk,

1.8 Agency Data User Confidentiality Agreement.

Before System(s) access is granted, as part of SFDPH's compliance, privacy, and security training, each Agency 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.

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

1.10 User ID and Password.

Each Agency Data User will be assigned or create a User ID and password. Agency and each Agency Data User shall protect the confidentiality of User IDs and passwords and shall not divulge them to any other person(s). Agency is responsible for the security of the User IDs and passwords issued to or created by Agency 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 Agency Data User is compromised or disclosed to a person other than the Agency Data User, Agency shall upon learning of the compromised password immediately notify the City, at Compliance.Privacy@sfdph.org, (855) 729-6040. Agency is liable for any such misuse. Agency's failure to monitor each Agency Data User's ID and/or password use shall provide grounds for the City to terminate and/or limit Agency's System(s) access.

1.12 Multi Factor Authentication.

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

1.13 Qualified Personnel.

Agency shall allow only qualified personnel under Agency's direct supervision to act as Agency 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 Agency'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.

Agency 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, Agency will provide such security policies and procedures to the City. The City may examine annually, or in response to a security or privacy incident, Agency's facilities, computers, privacy and security policies and procedures and related records as may be necessary to be assured that Agency 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 Agency's receipt of the request.

1.25 Data Security and City Data

Agency 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, Agency 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 Agency's obligation of confidentiality as further described herein, Agency 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 Agency's employees, agents, and subcontractors, if any, comply with all of the foregoing. In no case shall the safeguards of Agency'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.

Agency 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 an Agency 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 Agency and each Agency 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 Agency or Agency Data Users for System(s) access.

1.31 City Audit of Agency and Agency Data Users.

The City acting in its sole discretion may audit Agency and Agency 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 Agency's and/or Agency Data User's access to the System(s) permanently or until the City determines that all irregularities have been satisfactorily cured. Agency and each Agency Data User understands that the City may create and review an audit trail for each Agency Data User, including but not limited to, noting each Agency Data User's ID(s), the patient information accessed, and/or the date accessed. Agency and each Agency 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 Agency's or such Agency Data User's access to the System(s). Agency 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.

Agency and each Agency Data User shall safeguard the confidentiality of all City Data that is viewed or obtained through the System(s) at all times. Agency and each Agency 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.

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

1.35 Subcontracting.

Agency may not subcontract any portion of Data Access Agreement, except upon prior written approval of City. If the City approves a subcontract, Agency 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 Agency's access. In addition, each contract between Agency 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 in the same manner in which Agency would be so obligated, (2) provide cyber and technology errors and omissions insurance with limits identified in Article 5, and (3) ensure that such data has been destroyed, returned, and/or protected as provided by HIPAA at the expiration of the subcontract term.

DPH NOTE: INCLUDE MED MAL INDEMNIFICATION IF THE SERVICES INCLUDE USE OF A SYSTEM RELATED TO THE PROVISION OF MEDICAL TREATMENT

Article 2 Indemnity

2.1 Medical Malpractice Indemnification.

Agency 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, Agency agrees that it will:

- (a) Read information displayed or transmitted by the System accurately and completely;
- (b) Ensure that Agency 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 Agency 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 Agency knows or should know could adversely affect patient care;
- (f) Follow industry standard business continuity policies and procedures that will permit Agency 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.

Agency 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 Agency's or an Agency Data User's System access.

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 Agency 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 Agency as of the first day on which such breach or security incident is known to the Agency, or, by exercising reasonable diligence would have been known to the Agency. Agency 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 Agency.

Agency 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 Agency 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: Agency 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 Agency is considered only a custodian and/or non-owner of the City Data, Agency 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. Agency 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 Agency is considered only a custodian and/or non-owner of the City Data, Agency 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 Agency to do so.

Attachment 1 to Appendix D
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) Agency 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. Agency is responsible for all associated costs. Agency shall ensure that Agency Data Users access the System only through equipment owned or leased and maintained by Agency.

2. Compliance with Epic Terms and Conditions.

- a) Agency 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) Agency 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. Agency is responsible for all

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

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, Agency 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 Agency's permissions to access SFDPH Epic Hyperspace or Epic Hyperdrive prior to completing this agreement. Agency 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. Agency 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. Agency is responsible for all associated costs. Agency shall ensure that Agency Data Users access the System only through equipment owned or leased and maintained by Agency.

2. Information Technology (IT) Support.

- a. Agency 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.

**DEPARTMENT OF PUBLIC HEALTH CONTRACTOR
FEE FOR SERVICE STATEMENT OF DELIVERABLES AND INVOICE**

Appendix F
PAGE A

Contract ID#
1000009327

Contractor: Helios Healthcare, LLC

Address: 520 Capitol Mall, Suite 800, Sacramento, CA 95814-4716

Tel No.: (916) 471-2235

Fax No.:

BHS

Funding Term: 07/01/2020 - 06/30/2021

PHP Division: Behavioral Health Services

INVOICE NUMBER: M01 JL 20

Ct.Blanket No.: BPHM N/A

Ct. PO No.: POHM SFGOV-0000455867

Fund Source: General Fund

Invoice Period: July 2020

Final Invoice: (Check if Yes)

Unduplicated Clients for Exhibit:	Total Contracted Exhibit UDC	Delivered THIS PERIOD Exhibit UDC	Delivered to Date Exhibit UDC	% of TOTAL Exhibit UDC	Remaining Deliverables Exhibit UDC

*Unduplicated Counts for AIDS Use Only.

DELIVERABLES Program Name/Reptg. Unit Modality/Mode # - Svc Func (MH Only)	Total Contracted		Delivered THIS PERIOD		Unit Rate	AMOUNT DUE	Delivered to Date		% of TOTAL		Remaining Deliverables	
	UOS	CLIENTS	UOS	CLIENTS			UOS	CLIENTS	UOS	CLIENTS	UOS	CLIENTS
Facility - Idylwood Care Center- 240645-10000-10026703-0001												
SNF1					\$ 117.00	\$ -	0.000		0.00%		0.000	
Neuro/ SNF2					\$ 140.00	\$ -	0.000		0.00%		0.000	
Neuro Single/ SNF3					\$ 170.00	\$ -	0.000		0.00%		0.000	
1:1/ Line of Sight x 1 Shift/ SNF-N5					\$ 264.00	\$ -	0.000		0.00%		0.000	
1:1/ Line of Sight x 2 Shift/ SNF-N6					\$ 396.00	\$ -	0.000		0.00%		0.000	
1:1/ Line of Sight x 2 Shift/ SNF-N7					\$ 529.00	\$ -	0.000		0.00%		0.000	
BH/ SNFBH					\$ 306.00	\$ -	0.000		0.00%		0.000	
TOTAL	-		0.000				0.000		#DIV/0!		0.000	

Budget Amount	Expenses To Date	% of Budget	Remaining Budget
\$ 2,620,000.00	\$ -	0.00%	\$ 2,620,000.00

SUBTOTAL AMOUNT DUE \$ -
Less: Initial Payment Recovery
(For DPH Use) Other Adjustments
NET REIMBURSEMENT \$ -

NOTES:

I certify that the information provided above is, to the best of my knowledge, complete and accurate; the amount requested for reimbursement is +A1 in accordance with the contract approved for services provided under the provision of that contract. Full justification and backup records for those claims are maintained in our office at the address indicated.

Signature: _____

Date: _____

Title: _____

Send to:

Behavioral Health Services-Budget/ Invoice Analyst
1380 Howard St., 4th Floor
San Francisco, CA 94103

Or email to:
cbhsinvoices@sfdph.org

DPH Authorization for Payment

Authorized Signatory

Date