

**RESOLUTION NO. 23-112**

**Resolution Of The City Council Of The City Of Emeryville Authorizing Application For, And Receipt Of, Up To \$136,000 In Grant Funds From Alameda County Area Agency On Aging Supportive Services Program For Senior Center Activities And Authorizing The City Manager To Execute Funding Agreements Through June 30, 2026 With The Alameda County Area Agency On Aging And To Appropriate The Funds To Account Number 5460-51100**

**WHEREAS**, the City of Emeryville has long provided programs for older adults through the Emeryville Senior Center; and

**WHEREAS**, the Emeryville Senior Center desires to continue such services to assist older adults in the community with a special emphasis on low-income minority elders; and

**WHEREAS**, the City of Emeryville applied for and received a grant from the Alameda County Area Agency on Aging for services to seniors through 2026; and

**WHEREAS**, the City is required to execute the proposed funding agreement to receive the remaining three years' of grant funding, not to exceed \$136,000; now, therefore, be it

**RESOLVED**, by the City Council of the City of Emeryville hereby authorizes the application for, and receipt of, up to \$136,000 from Alameda County Area Agency on Aging (AAA) for senior center activities and authorizes the City Manager to execute funding agreements through June 30, 2026, with the Alameda County Area Agency on Aging and to appropriate said funds to account number 5460-51100.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, September 5, 2023, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Welch and Council Members Kaur, Mourra and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

*John Bauters*

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MAYOR

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:

*April Richardson*

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CITY CLERK

DocuSigned by:

*John Kennedy*

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CITY ATTORNEY

110-23

SCA Procurement Contract No. 25720

**QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS**

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package. Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: City of Emeryville

TITLE/SERVICE: Senior Center Activities

DEPT #: 320200

DEPT. CONTACT: Jennifer Stephens-Pierre

PHONE: (510) 577-1966

**I. INFORMATION ABOUT THE CONTRACTOR** **YES NO**

1. Is the contractor a corporation or partnership? ( x ) ( )

2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? ( x ) ( )

3. If the answer to BOTH questions is YES, provide the employer ID number here:  
94-6000326 No other questions need to be answered. Withholding is not required.

4. If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: \_\_\_\_\_  
 No other questions need to be answered. Withholding is not required.

5. If the answer to question 2 is NO, continue to Section II.

**II. RELATIONSHIP OF THE PARTIES** **YES NO**

1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? ( ) ( )

2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? ( ) ( )

3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? ( ) ( )

4. Is the relationship between the County and the contractor intended to be ongoing? ( ) ( )

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SCA Procurement Contract No. 25720

**III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS**      **YES   NO**

1. Is the contractor being hired for a period of time rather than for a specific project?      (   )   (   )
2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)?      (   )   (   )

**IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS**      **YES   NO**

1. Will the agreement be with an individual who does not have an outside practice?      (   )   (   )
2. Will the contractor work more than an average of ten hours per week?      (   )   (   )
- IF THE ANSWER TO QUESTION 2 IS YES, ANSWER QUESTION 3.

3. Will the County provide more than 20% of the contractor's income?      (   )   (   )
4. If the answer to either question 2, or if required, question 3 is NO, the entire answer is NO.

A "YES" answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an "employee for withholding purposes."

**CERTIFICATIONS:**

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Agency/Department Head/Designee  
Signature

\_\_\_\_\_  
Paul Buddenhagen  
Printed Name

\_\_\_\_\_  
Delbert Walker  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**COUNTY OF ALAMEDA  
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of July 1, 2023, is by and between the County of Alameda, hereinafter referred to as the “County”, and the City of Emeryville, hereinafter referred to as the “Contractor”.

**WITNESSETH**

Whereas, County desires to obtain *Senior Center Activities services* which are more fully described in Exhibit A hereto; and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County;

Now, therefore it is agreed that County does hereby retain Contractor to provide *Senior Center Activities services*, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit B	Terms and Conditions of Payment
Exhibit B-1	Program Budget
Exhibit C	Insurance Requirements
Exhibit D	Audit Requirements
Exhibit E	Intentionally Omitted
Exhibit F	Debarment and Suspension Certification
Exhibit G	Additional Provisions - Federal Provisions
Exhibit G-1	Certification for Contract, Grants, Loans, and Cooperative Agreements

The term of this Agreement shall be from July 1, 2023 through June 30, 2026.

The compensation payable to Contractor hereunder shall not exceed *one hundred thirty-six thousand dollars* (\$136,000) for the term of this Agreement.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

Approved as to Form:

By: DocuSigned by:  
John I. Kennedy  
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City Attorney Signature

COUNTY OF ALAMEDA

CONTRACTOR/City of Emeryville

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: Andrea Ford  
(Printed)

Name: Paul Buddenhagen  
(Printed)

Title: Social Services Agency Director

Title: City Manager

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

## GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two weeks' notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities

and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has

been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
6. **CONFORMITY WITH LAW AND SAFETY:**
  - a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
  - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
  - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.
7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
  - a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal



suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. **PAYMENT:** For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. **TRAVEL EXPENSES:** Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall

apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

**First Class Mail:** When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. **Certified Mail:** When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

**Overnight Delivery:** When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. **Telex or facsimile transmission:** When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA  
Department of Adult & Aging Services  
6955 Foothill Blvd., Suite 300  
Oakland, CA 94605  
Attn: Jennifer Stephens-Pierre

Contracts Office  
1111 Jackson Street, 1<sup>st</sup> Floor  
Oakland, CA 94607  
Attn: Muang Saechao

To Contractor: City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608  
Attn: Kim Burrowes

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
  - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
  - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
  - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
  - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a

criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its *Senior Center Activities services* shall not exceed \$136,000 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. **SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION:**

**Revised SLEB Provisions for use in Standard Services Agreement.**

**SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:**

Contractor has been approved by County to participate in contract without SLEB participation. As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision.

**However, if circumstances or the terms of the contract should change,** Contractor may be required to immediately comply with the County's Small and Emerging Local Business provisions, including but not limited to:

- a. Contractor must be a certified small or emerging local business (es) or subcontract a minimum 20% with a certified small or emerging local business(es).
- b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. Small and/or Emerging Local Business participation and current SLEB certification status must be maintained for the term of the contract. Contractor shall ensure that their own certification status and/or that of participating subcontractors (as is applicable) are maintained in compliance with the SLEB Program.
- d. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to

substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance (OCC).

- e. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System.

County will be under no obligation to pay contractor for the percent committed to a SLEB (whether SLEB is a prime or subcontractor) if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at [ACSLEBcompliance@acgov.org](mailto:ACSLEBcompliance@acgov.org).

- 22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
- 23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
- 24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
- 25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
- 26. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
  - c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.
  - d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents



(Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.

32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
  - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
  - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.

35. **EXTENSION:** This agreement may be extended for two additional one-year terms by mutual agreement of the County and the Contractor.
36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

**[END OF GENERAL TERMS AND CONDITIONS]**

## EXHIBIT A

### DEFINITION OF SERVICES

#### I. PROGRAM GOALS

- A. **Senior Center Activities** are services designed to enable older adults to attain and/or maintain physical and mental well-being through the provision of necessary services in the community and the support senior centers offer. Services include activities such as recreation, music, creative arts, physical activity, education, leadership development and other supportive services not covered under other service categories. Development and provision of new volunteer opportunities and services, and creation of additional services and programs to remedy gaps and deficiencies in existing services. Entertainment costs such as tickets to shows or sporting events, meals, lodging, rentals, transportation, and gratuities are not allowable.
- B. Services shall be targeted to older residents of County of Alameda – **North** (Albany, Berkeley, and Emeryville) with a special emphasis on low-income minority older adults. Service locations shall be situated in or accessible to concentrations of consumers in the greatest social and economic need. Programs shall utilize the views of participants when evaluating the effectiveness of services received.

#### II. PROGRAM PERFORMANCE STANDARD

##### A. COMPLIANCE

- 1. In compliance with State of California Information Management requirements, all contractors are required to use 128-Bit encryption for data collected under this Agreement that is confidential, sensitive, and/or personal identifying information herein referred to as Personal Sensitive and Confidential Information (PSCI) including data stored on all computing devices (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers and backup media) and/or portable electronic storage media (including but not limited to, discs, thumb/flash drives, portable hard drives, and backup media).
- 2. In compliance with data collection requirements set forth in the Older Americans Act Performance System (OAAPS), all contractors are required to submit a monthly electronic MIS report (AAA186) by the 15th calendar day following the month of service. Programs delivering Registered Services are also required to enter MIS and Client Demographic data in the Social Assistance Management System (SAMS) by the 15th calendar day following the month of service. Each program is required to maintain statistical and financial data for all program and client information submitted to the Area Agency on Aging (AAA) in such a way as to document and assure the accuracy of the data presented in the required monthly program and financial reports.

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3. AAA staff shall perform periodic monitoring of contract activities for compliance of work progress with the terms and conditions of the contract in order to ensure services are performed according to appropriate service expectations, such as quality of services, quantity of services, service objectives, assurances and specific requirements, special conditions, and timeframes specified in contract.
4. Contractor shall provide Alameda County Social Services Agency (SSA), AAA, State of California Department of Aging (CDA), and Federal Administration on Aging (AoA) Officials access to agency, consumers, statistical, financial, and other data records pertaining to the program administered under this contractual agreement.
5. Contractor shall register for the AAA Senior Info e-mail ([seniorinfo@acgov.org](mailto:seniorinfo@acgov.org)) for automatic e-mail updates and changes in resource materials and references maintained by the AAA.
6. Contractor shall have in place an outreach strategy which demonstrates the ability to reach out to targeted populations and to inform the community about the agency and program services provided.
7. **Wait List Policy and Procedure** - To ensure all data is collected for the unmet need as requested by the U.S. Legislature, Contractor, must develop and implement a Wait List policy and procedure. The policy and procedure must include provisions for: prescreening individuals to determine eligibility; managing applicants' placement on and removal from the Wait List; periodically reviewing the eligibility and identified needs of applicants on the Wait List; and assigning priority for enrollment based on Wait list.
8. Contractor shall offer to each older individual seeking Title III case management services, a list of agencies that provide similar services within the jurisdiction of the AAA as specified in 42 USC 3026(a)(8)(C)(i)-(iii).
9. **Conflict of Interest:** Contractor may receive information while providing services under the Agreement that they may otherwise not have obtained. Contractor cannot use resources provided through this Agreement to participate in an action that is in any way adverse to County, or the Alameda County Social Services Agency, based on information obtained by Contractor through its work under this Agreement or related to the services provided by Contractor under this Agreement.
10. Contractors shall have in place a written complaint resolution process that meets requirements of Title 22 [CCR§7400], and that is in alignment with the AAA Grievance Policy (**Attachment A**). All contractors shall post and advise clients of their complaint resolution process.
11. Contractors shall adhere to the SSA's Master Plan on Language Access to ensure its limited-English proficient (LEP) clients are provided with language accessible services and communications. Language Access Requirements for Contractors (**Attachment B**)

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contains specific language access provisions.

12. Within the first 60-days of the contract, Contractor shall have developed written:

- a. Personnel Policies and Procedures,
- b. Job Descriptions for all staff involved in the program,
- c. Emergency Preparedness Plan including Incident Command System (ICS),
- d. Grievance Resolution Policy

13. Within the first 30 days of the contract, Contractor shall provide the information as requested below:

Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Name	Title	Telephone	Email Address

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

14. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

**B. HIPAA**

1. Contractor shall ensure that all clients receive notification of their privacy rights under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the California Confidentiality of Medical Information Act (CCMIA), prior to receiving services.
2. Contractor shall ensure that all program employees and volunteers with access to PSCI complete the annual CDA Privacy and Information Security Awareness Training and secure a confirmation Certificate of Completion within:
  - a. 30-days of the start date of this Contract,
  - b. 30-days of the start date of any new employee, volunteer, or subcontractor,

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- c. An annual timeframe.
- 3. Contractors must maintain Certificates of Completion on file and provide them to AAA upon request including PSCI.
  - a. The Contractor, and its Subcontractors/Vendors, shall ensure that all PSCI is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations, and State policies.
  - b. The Contractor, and its Subcontractors/Vendors, shall protect from unauthorized disclosure, PSCI such as names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.
  - c. The Contractor, and its Subcontractors/Vendors, shall not use PSCI above for any purpose other than carrying out the Contractor's obligations under this Agreement. The Contractor and its Subcontractors are authorized to disclose and access identifying information for this purpose as required by OAA.
  - d. Notice must be given by the Contractor, and/or its Subcontractors/Vendors to anyone whose PSCI could have been breached in accordance with HIPAA, the Information Practices Acts of 1977, and county policy.

**C. SERVICE OBJECTIVES**

- 1. Senior Center Activities programs must have a minimum service delivery capacity of three (3) days per week, with a minimum of 20 hours per week, at one identifiable senior center site. Services shall be provided at the Emeryville Senior Center, located at 4321 Salem Street, Emeryville, CA 94608.
- 2. Average Daily Attendance (ADA) shall be at least fifteen (15) unduplicated older adults at the senior center for services and programs.
- 3. Basic Information & Assistance (I&A) services shall be provided to senior center participants and their caregivers. (This may include giving them resource lists or information regarding key contacts in agencies which may assist them.)
- 4. Senior Center Activities programming may include services such as health screening, health education, flu shots, counseling, hot lunches, daily translations, income support, basic information and assistance, exercise and art classes, escort transportation, telephone reassurance, friendly visiting, crafts, presentations on benefits available to older adults, health insurance counseling, forms completion assistance, field trips and other social activities, etc.
- 5. Interpretation/Translation services shall be provided to senior center participants and their caregivers who may be monolingual.
- 6. Staff shall attend the AAA's I&R Roundtable meetings held every other month starting in July.

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7. Posters/flyers advertising programs such as HICAP, QMB, Medicare, SSI, Ombudsman, California Senior Legislature, Energy Discounts, etc., shall be posted in locations visible to senior center program participants. The Area Agency on Aging shall provide these materials upon request.
8. Program staff should be knowledgeable about programs such as Medicare, Med-Cal (including share of cost), Social Security, Supplemental Security Income (SSI), QMB, In-Home Supportive Services (IHSS), subsidized housing, Paratransit (Transportation) Services, Discount Programs for Older Adults, and other related benefit programs which might assist senior center program participants.
9. Workshops shall be conducted quarterly on such topics as energy assistance, crime/safety prevention for older adults, public benefits, elder abuse prevention, affordable housing, citizenship classes (for those programs serving immigrants), etc.
10. Senior center programs are required to have monthly newsletters or calendars, advertising programs and events of interest to older adults.
11. A monthly calendar of activities shall be developed and posted in the center, and shall be used as the basis for determining hours of activity scheduling for monthly MIS reports.
12. Programs shall offer group activities for socialization, including weekly/monthly get-togethers and field trips.

**D. UNITS OF SERVICE**

1. Contractor shall perform units of service during this contract period in a manner that distributes them reasonably and evenly over the months of the Agreement.
2. Contractor shall target services to persons 60 years and older as follows:

North County:

a. Aged 75 and older	30%
b. Low Income (Greatest Economic Need)	32%
c. Functionally impaired	30%
d. Minority	52%

3. Contractor shall provide Senior Center Activities services to eligible Older Adults during the term of the Agreement. Specific service levels shall be determined in agreement with the AAA.
4. American Rescue Plan Act (ARPA) Objective: ARPA allocation shall be used to provide program support in response to the COVID-19 Pandemic during the period of July 1, 2023 through June 30, 2024.

**E. DEFINITIONS**

1. **Eligible Service Population for Title III-B and III-D:** Individuals sixty (60) years of age or older, with emphasis on those in greatest economic and social need with particular attention to low-income minority older individuals, older individuals with Limited English Proficiency (LEP), and older individuals residing in rural areas. [OAA § 305 (a)(2)(E); 22 CCR 7119, 7125, 7127, 7130, 7135 and 7638.7]
2. **New Older Adult:** An individual 60 years of age and older who receives service through the terms of this Agreement as of July 1 of each annual period, including those previously served as well as those never before served by the agency. For reporting purposes, each Older Adult receiving services related to this grant is counted only once during the annual period.

**UNIT: one contact per annual period**

3. **Senior Center Activities:** Services designed to enable older individuals to attain and/or maintain physical and mental well-being such as recreation, music, creative arts, physical activity, education, leadership development and other supportive services not covered under other service categories. Development and provision of new volunteer opportunities and services, and creation of additional services and programs to remedy gaps and deficiencies in existing services. Entertainment costs such as tickets to shows or sporting events, meals, lodging, rentals, transportation and gratuities, are not allowable.

**UNIT: one hour**

4. **Cash / Material Aid:** To arrange for and provide assistance to older adult participants in the form of commodities, surplus food distribution, emergency cash assistance, discount cards, and vouchers.

**UNIT: one assistance benefit**

5. **Information:** To give information about resources, programs, and services. (Does not attempt to facilitate appointments or other arrangements between the client and service provider).

**UNIT: one client served**

NOTE: Information calls that are made to an agency “in the course of doing business” are not to be included in the monthly total of MIS Information service units. (e.g., calls to an agency requesting information about its location or hours of operation, would not be counted.)

6. **Referral:** To screen inquirers to identify needs and appropriate resources, indicating organizations capable of meeting those needs; to help callers for whom services are unavailable by locating alternative resources, and, if necessary, to actively participate in linking the inquirer to needed services.

**UNIT: one client referral**



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7. **Follow-Up:** To determine the outcome of a referral by contacting the client and/or the entity to which the client was referred.  
**UNIT: one client referral outcome**
8. **Aged 75 and older:** An Older Adult who is 75 years of age or older.
9. **Low Income (Greatest Economic Need):** Having monthly income at or below the Department of Health and Human Services (DHHS) Federal Poverty Guidelines.
10. **Functionally Impaired:** Appears (on the basis of initial observation or reports) to be unable to independently and safely perform activities of daily living (ADLs) - bathing, dressing, toileting, eating, getting in/out of bed, and walking - and/or instrumental activities of daily living (IADLs) - doing heavy housework, doing light housework, shopping, preparing meals, managing medications, using a telephone, managing money, or transportation ability.
11. **Minority:** A member of any race other than Caucasian. Minority races include American Indian/Alaska Native, African American/Black, Asian, Asian Indian, Cambodian, Chinese, Filipino, Japanese, Korean, Laotian, Vietnamese, Other Asian, Native Hawaiian/Pacific Islander, Guamanian, Hawaiian, Samoan, Other Pacific Islander, any Other Race.
12. **Child:** An individual who is not more than eighteen (18) years of age.

### III. PROVISIONS AND REMEDIES FOR FAILURE TO MEET PERFORMANCE STANDARD

#### A. TYPES OF SERVICES

Contractor agrees to meet the monthly contracted level of service and the specified performance standards unless there are circumstances beyond the Contractor's control such as natural disasters, fire, theft, unanticipated increases in inflation, shortage of necessary supplies or materials due to labor disputes or other causes.

##### 1. **Supportive Services**

For each month that service falls below 95% of the contracted level, the Contractor shall submit an analysis of the causes of the problem and any necessary actions to be taken to correct the problem. If the problem continues for two consecutive months, the County will meet with the Contractor to explore the problem and develop an appropriate written corrective action plan with time frames. If the Contractor does not carry out the required corrective action within the time frame, sanctions will be applied as described in the sanction policy.

## 2. **Nutrition**

If the level of service (number of meals) falls below 10%, and reaches 11% after 9 months of service, the percentage over 10% of contractor's funds shall be reallocated to other contractors who are over serving. If no over service is occurring, the funds may be used on a one-time-only (OTO) basis to purchase equipment. Under service in the current year may affect the next year's allocation of funds.

## B. **NON-COMPLIANCE: STAGES OF SANCTIONS**

County may invoke financial sanction procedures as follows when Contractor fails to comply with the Fiscal Reporting and Program Requirements.

### 1. **Phase I - Initial Suspension**

Contractor is in "suspended status" for a maximum of ten (10) working days or until overdue invoice/report is submitted or corrective action taken.

- a. Implementation - Imposed when Contractor is identified as being materially out of compliance.
- b. Notice - Suspended status shall be in effect:
  - (1) On the eighth (8th) working day of overdue invoices or activity reports without formal notice to contractor, or
  - (2) As early as the sixth (6th) working day if formal notice is given.
- c. Reimbursements - Suspended status shall cause all payments due Contractor by County to stop, including all payments in process for any prior invoice. At County's option, administrative activity directed toward an amendment or any new agreement may be suspended.
- d. Duration - Maximum of ten (10) working days.
- e. Lifting - The initial suspension shall be lifted when:
  - (1) The Contractor has submitted the required document(s),
  - (2) The Contractor has adequately demonstrated corrective action, or
  - (3) The penalty phase takes effect.

### 2. **Phase II - Penalty Phase**

On the nineteenth (19th) working day after an invoice or required report is due, if Contractor is still out of compliance, the contractor may be penalized 1% of the total amount of the contract as executed. A Contractor may accrue as many 1% penalties during an entire contract period as may result for as many instances of contractor failure to submit invoices/reports as required.

- a. Authority - Imposition of a penalty shall be authorized by the Director of the Area Agency on Aging.
- b. Notice - A formal Notice of Penalty shall be sent to the Contractor via certified mail. The notice will specify the reason for the sanction; corrective action(s)

- required; allowable obligations and expenditures; appeal procedure; and related information.
- c. Reimbursements - Only costs specifically allowable under terms of the penalty phase shall be allowable. Allowable costs shall be specified in the Notice of Penalty and generally will include necessary costs of providing services until the thirtieth (30th) working day after the required document(s) or corrective action was due.
  - d. Duration - Maximum of ten (10) working days.
  - e. Lifting - The penalty sanction shall be lifted when:
    - (1) The Contractor has submitted the required document(s),
    - (2) The Contractor has adequately demonstrated corrective action, or
    - (3) A Notice of Intent to Suspend Reimbursements is issued to the Contractor.

### 3. **Phase III - Suspension of Reimbursements**

If Contractor has not submitted the required document(s), on the thirtieth (30th) workday after the monthly invoice, activity report, other required reports are due, the County shall no longer be liable for expenses incurred by Contractor after thirtieth (30th) workday, or for any subsequent time until the delinquent invoice or report is submitted, or corrective action completed.

- a. Authority - Suspension of reimbursements shall be authorized by the Director of the Area Agency on Aging in consultation with the SSA Director.
- b. Notice - A formal Notice of Intent to Suspend Reimbursements shall be sent to Contractor via certified mail.
- c. Reimbursements – After submission of delinquent invoice/report or contractor implementation of corrective action, County shall reassume liability for expenses reported by Contractor as of the date the delinquent invoice/report is submitted. The County reserves the right to examine Contractor's records to make necessary pro-ration of costs which are not allowable (or payable) during this period of suspension. If Contractor subject to total non-payment of costs under this section, it is not subject to penalties described in Phase II above. If the Agreement term has expired, and a final invoice and closeout report are not submitted within thirty (30) days, it shall not be honored by County.
- d. In no case during the sanction period is the Contractor exempt from providing services required under Exhibit A. Should the Contractor fail to provide services as required, the Contractor's failure to perform shall serve as a basis for County to terminate the Agreement for cause. The County may also hold the Contractor liable for costs to replace the services and seek damages for Contractor's failure to perform.
- e. Duration - Suspension of reimbursements phase remain in effect until Contractor takes corrective action satisfactory to the AAA and the SSA or when the County Board of Supervisors terminates the Agreement.
- f. Lifting - The suspension of reimbursements phase shall be lifted when:
  - (1) The Contractor has adequately demonstrated corrective action, or
  - (2) Termination of the Agreement.

**C. WAIVER OF SANCTION PROCEDURE**

Upon notice that County is implementing the sanction procedures described above, Contractor may file a written appeal with the AAA Director. Such appeal shall indicate justification for delinquent invoice or report, and other relevant facts. The AAA Director may waive penalties described in Phase II – Penalty Phase or authorize recognition of expenses proposed for non-payment under Phase III. Upon notice by the AAA Director if the waiver(s) is/are not granted, Contractor may appeal to the Social Services Agency Director for further consideration.

**IV. TERMINATION**

Contractor shall submit a Transition Plan for termination or transfer of services which includes:

- A. Description of how clients shall be notified about the change in their service provider.
- B. A plan to communicate with other organizations that can assist in locating alternative services.
- C. A plan to inform community referral sources of the pending termination of the service and what alternatives, if any, exist for future referrals.
- D. A plan to evaluate clients in order to assure appropriate placement.
- E. A plan to transfer any confidential medical and client records to a new contractor.
- F. A plan to dispose of confidential records in accordance with applicable laws and regulations.
- G. A full inventory and plan to dispose or, transfer, or return to the County all equipment purchased during the entire operation of the Agreement.
- H. Additional information as necessary to affect a safe transition of clients to other community service providers.

**V. ASSURANCES AND SPECIFIC REQUIREMENTS**

- A. Contractor agrees to administer this Agreement and require any subcontractors to administer their subcontracts in accordance with this Agreement, and with all applicable Federal, State, County, and local laws and regulations including, but not limited to, the OAA as amended, the Civil Rights Act, the Americans with Disabilities Act, Office of Management and Budget (OMB) Circulars, Federal Code of Regulations [45CFR§1321.63 -§1321.71], [\[45CFR§75\]](#), California Title 22 [22CCR§7500-7716], discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to this Agreement and resolve all issues using good administrative practices and sound judgment. The Contractor and its subcontractors shall keep in effect all licenses, permits, notices, and certificates that are required by law.

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- B. Contractor shall give/publish credit for funding to the Alameda County Area Agency on Aging in all media transmission, including radio, TV, newspapers of general circulation, newsletters, contractor published materials or presentations to the community and other interested groups, flyers/pamphlets/posted material for general distribution. Contractor shall submit copies of the above noted publicity material to the AAA Program Liaison as such material is available.
- C. Contractor is required to attend Provider Meetings scheduled by the AAA. Contractor shall provide paid release time to appropriate staff to attend AAA sponsored Provider Meetings and Training Sessions relevant to their programs. Appropriateness of training shall be determined by the Program Liaison working directly with the Contractor. This section is applicable only if the AAA has such training available.
- D. Programs must have procedures to protect the confidentiality and privacy of information about, or obtained from, participants or consumers. Contractor shall ensure that information about, or obtained from a participant's records, shall be maintained in a confidential manner according to the following guidelines under Title 22 Section 7500 subpart (b):

Providers shall not disclose any information about an older individual or obtained from an older individual in a form that identifies that person, without the written consent of the individual or his/her legal representative. Records with client names, addresses and phone numbers shall:

- 1. Be available only to authorized service staff assisting the individual.
- 2. Remain in a secure, locked file or secure area to protect confidentiality of the records.
- 3. Be removed from data or information used for reporting and planning purposes and from data or information made available to the public unless the consent of the older individual has been obtained.

**E. NON-DISCRIMINATION CLAUSE**

During the performance of this Agreement, Contractor and its subcontractors shall not deny any services to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code

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§§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement. Contractor shall fulfill all federal statute requirements relating to nondiscrimination, including:

1. Ensuring that its services are accessible to persons with disabilities as per DHEW Regulations, Section 504 of the Rehabilitation Act of 1973;
  2. Complying with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.);
  3. Ensuring equal access to Federal, State and County Funded Benefits, Programs and Activities;
  4. Complying with those statutes and laws contained in the Contractor Certification Clauses (CCC 307), which is hereby incorporated by reference.
- F. Contractor shall comply with the Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations requirements regarding staff and participant safety. Contractors shall prepare and maintain a written Emergency Operations Plan that ensures provision of critical services to meet the emergency needs of consumers they are charged to serve during medical or natural disasters, such as earthquakes or floods. The plan shall include assurances that preparations have been made in the following areas:
1. Preparation of the facility.
  2. Training for all staff, volunteers and participants in the Agency's emergency operations plan.
  3. Fire safety preparations.
- G. Contractor shall comply with Section 15630 of the Welfare & Institutions Code as it relates to the mandatory and non-mandatory reports of abuse of elders and dependent adults.
- H. Contractor shall notify the AAA within ten (10) days of changes in administrative staff.

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- I. Contractor shall continue with the responsibilities under this Agreement during any dispute.
- J. Contractor shall not enter into subcontracts for any of the work performed under this contract without first obtaining written approval from the AAA. All third-party contracts must be approved by the County and conform to CDA and AAA policies for an open competitive process. The applicant's open competitive process and contract specifications must be described in the plan for service delivery at the time the proposal is submitted. It must also set forth clear procedures for financial accountability and service delivery.
- K. Contractor shall not require proof of age, citizenship, or disability as a condition of receiving services.
- L. Participant income information may not be used to limit or deny services. Means tests shall not be used as criteria for eligibility for any Title III or Title VII services. All eligible OAA program participants who receive a service shall be provided with a voluntary and private opportunity to contribute to the cost of services, but no fees for service may be imposed on OAA consumers, and participation must not be denied due to refusal or inability to donate or pay. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive. Donation letters sent to clients for Title III and Title VII services shall not resemble a bill or a statement and shall stipulate that contributions are voluntary and not required to receive service. Services shall not be denied to any Title III or Title VII client that does not contribute toward the cost of the services received. No eligible individual shall be denied participation because of failure or inability to contribute. Contractor shall ensure that the amount of the eligible participant's contribution is kept confidential.
- M. Cost Sharing must be approved by AAA/CDA in advance for any Title III/VII service.
- N. **LOBBYING CERTIFICATION**

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

- 1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure of Lobbying Activities" (Attachment C) in accordance with its instructions.

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3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**O. CONTRACTS IN EXCESS OF \$100,000**

If all funding provided herein exceeds \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:

1. Clean Air Act, as amended (42 USC 1857).
2. Clean Water Act, as amended (33 USC 1368).
3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
5. Public Contract Code Section 10295.3

**P. CALIFORNIA DEPARTMENT OF AGING (CDA) MANDATE**

CDA mandates that the following language **MUST** be utilized in all signs, brochures, etc. that address the opportunity for participants to contribute to all programs:

1. There is no obligation to contribute.
2. A contribution is purely voluntary.
3. No eligible participant shall be denied service because of a failure or inability to contribute.

**Q. RESULTS-BASED ACCOUNTABILITY**

The Social Services Agency has adopted the Results-Based Accountability (RBA) framework to strengthen and increase data collection and improve contract performance. The RBA framework establishes performance measures which will allow SSA to track the positive impact and benefits of services for the target population by focusing on three critical questions: How much work was done? How well was it done? Is anyone better off?



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The performance measures and the deliverables are described below. A link to further information on RBA can be found at: <http://www.raguide.org/>.

1. How much was done?
  - a. Contractor shall meet a minimum of 95% of its program specific Service Unit requirements.
  - b. Deliverable: Contractor will submit monthly data reports to AAA to document the number of specific Service Units provided each month.
2. How well was it done?
  - a. Contractor shall maintain ongoing compliance with all program specific service and legal requirements, as described in the Exhibits and Attachments of this contract.
  - b. Deliverable: Contractor shall host on-site monitoring and technical assistance visits and provide proof of compliance documentation as required by AAA.
3. Is anyone better off?
  - a. Goals of the AAA programs shall be considered met, and clients better off, if Contractor meets 95% of its Service Unit requirements.
  - b. Deliverable: Contractor shall submit monthly data reports to AAA to document the number of specific Service Units provided.

**R. ALAMEDA COUNTY AREA AGENCY ON AGING FOCAL POINTS**

Focal points are Centers that offer access to services and an array of activities and services to meet the cultural, recreational, and social and health needs of the area served. To be considered a focal point, centers must provide nutrition programs, information and referral, transportation or access to transportation and linkages to other services.

1. North County
  - a. Albany Senior Center  
846 Masonic  
Albany, CA 94706  
510-524-9122
  - b. Oakland Department on Aging  
200 Grand Avenue  
Oakland, CA 94610  
510-238-3284
  - c. J-Sei, Inc.  
1285 66<sup>th</sup> St.  
Emeryville, CA 94608  
510-654-4000
  - d. North Berkeley Senior Center

- 1901 Hearst St.  
Berkeley, CA 94710  
510-981-5190
- e. South Berkeley Senior Center  
2939 Ellis St.  
Berkeley, CA 94703  
510-981-5170
- f. Emeryville Senior Center  
4321 Salem St.  
Emeryville, CA 94608  
510-596-3730
- g. Fruitvale San Antonio Senior Center  
3301 E. 12<sup>th</sup> Street, Suite 201  
Oakland, CA 94601  
510-535-6123
- h. Mastick Senior Center  
1155 Santa Clara Ave.  
Alameda, CA 94501  
510-747-7500
- i. Family Bridges, Inc.  
168 11<sup>th</sup> Street  
Oakland, CA 94607  
510-763-9017
- j. St. Mary's Center  
925 Brockhurst Street  
Oakland, CA 94608  
510-923-9600

2. Central County

- a. Hayward Senior Center  
22325 N. Main St.  
Hayward, CA 94541  
510-881-6766
- b. Kenneth C. Aitken Senior Center  
17800 Redwood Rd.  
Castro Valley, CA 94546  
510-881-6738

3. South County

Fremont Senior Center  
40086 Paseo Padre Parkway  
Fremont, CA 94538  
510-790-6600

4. East County

- a. Dublin Senior Center  
7600 Amador Valley Blvd.  
Dublin, CA 94568  
925-556-4511
- b. Pleasanton Department of Parks and Community Services  
5353 Sunol Blvd.  
Pleasanton, CA 94566  
925-931-5365
- c. Livermore Senior Services Center  
4444 East Avenue  
Livermore, CA 94550  
925-373-5760

**S. CHILD SUPPORT COMPLIANCE ACT**

For any Agreement in excess of \$100,000, the Contractor acknowledges in accordance with Public Contract Code 7110, that:

- 1. The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- 2. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**T. PRIORITY HIRING CONSIDERATIONS**

For any Agreement including services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

**U. PILOT PROGRAM FOR ENHANCEMENT OF CONTRACTOR WHISTLE-BLOWER PROTECTIONS**

Contractor agrees to adhere to 48 CFR 3.908, implementing section 828, entitled "Pilot Program for Enhancement of Contractor Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013), applies to this Agreement.

**V. SAME-SEX MARRIAGE**

Contractor agrees to recognize any same-sex marriage legally entered into in a United States (U.S.) jurisdiction that recognizes their marriage, including one of the fifty (50) states, the District of Columbia, or a U.S. territory, or in a foreign country so long as that marriage would also be recognized by a U.S. jurisdiction. This applies regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage. Accordingly, recipients must review and revise, as needed, any policies and procedures which interpret or apply federal statutory or regulatory references to such terms as “marriage,” “spouse,” family,” “household member” or similar references to familial relationships to reflect inclusion of same-sex spouse and marriages. Any similar familial terminology references in the U.S. Department of Health and Human Services’ (HHS) statutes, regulations, or policy transmittals will be interpreted to include same-sex spouses and marriages legally entered into as described herein. [1 USC 7 - Section 3 of the Defense of Marriage Act]

## **VI. OTHER REQUIREMENTS**

- A. Contractor is required to maintain financial and program records necessary for fiscal monitoring and audit review and make periodic reports as requested by the AAA. As required by 2 CFR 200, Subpart F, Audit Requirements, entities expending \$750,000 or more in a fiscal year are required have a Single Audit for that year. Audits must be submitted within thirty (30) days after receipt of the Auditor’s report or six (6) months after the end of the audit period, whichever occurs first (2CFR 200 512).
1. Client files – intake form activity logs, progress notes, attendance records, and additional program specific data.
  2. Employee files – daily time cards of hours worked, signed by the employee and approved by the supervisor, personnel data, including resume/application, pay rate, job description and W-4.
  3. Financial records as required by the Accounting Handbook for Community-Based Organizations and Contract Administration Manual, monthly logs detailing program income and match revenues and expenditures, in-kind documentation detailing the type and the method used to establish value, and all other records such as a general ledger, monthly bank statements, etc.
  4. Volunteer files – daily time sheets signed by the volunteer and approved by the supervisor, documentation as to how the rate of pay was determined.
  5. Other contracts – any agreements or contracts with other revenue sources, including program/service goals, performance reporting documents, budgets and claiming documents.

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6. The Contractor shall maintain complete records and make them available 1) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the AAA; (2) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by #7 and #8 of this section; and (3) for such longer period as Alameda County AAA deems necessary.
  7. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in #6 above.
  8. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and the AAA, and is so stated in writing to the Contractor.
  9. If the Contractor should cease to exist as an entity, these records must be forwarded to the AAA.
  10. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to guidelines set forth in 2 CFR 200.302, the expenditures will be questioned and may be disallowed during the contract resolution process.
- B. Contractor shall meet standards for its financial management systems as stipulated in [45 CFR 92.20 (governmental) or 45 CFR 74.211 (non-profits) as well as those stipulated in [2 CFR 200.302].

**C. REPORTING REQUIREMENTS**

Contractors shall submit invoices, MIS reports, and other reports as applicable to the services performed pursuant to this Agreement in such form and detail as may be required by the AAA.

1. OAA and County General Fund Invoices must be submitted on a monthly basis, within fifteen (15) calendar days after the close of the month of service.
2. In compliance with data collection requirements set forth in the Older Americans Act Performance System (OAAPS), all contractors (Registered and Non-Registered Services) are required to submit a monthly electronic MIS report (AAA186) on a monthly basis, within fifteen (15) calendar days following the month of service.
3. Contractors providing Registered Services are also required to enter MIS and Client Demographic data in the Social Assistance Management System (SAMS) on a monthly basis, within fifteen (15) calendar days following the month of service.

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4. Quarterly Reports must be submitted within twenty (20) calendar days after the close of the service period being reported to the County.
5. The Annual Financial Close-Out Report must be submitted within twenty (20) calendar days after the close of the Fiscal Year being reported to the County.
6. Contractors are required to maintain statistical and financial data for all program and client information submitted to the Area Agency in Aging (AAA) in such a way as to document and assure the accuracy of the data presented in the required monthly program and financial reports.

**Attachment A  
(Revised 8/2019)****Alameda County Area Agency on Aging Grievance Policy**

- I.** To comply with the California Department on Aging and Title 22 requirements, AAA's must establish a written grievance policy for the disposition of complaints by older individuals and or individuals authorized to act on their behalf against AAA's program, employees, or volunteers. The requirement includes that all subcontractor grant agreement providers establish a written grievance process for reviewing and attempting to resolve complaints that at a minimum must include the following:
  - A. Time frames within which a complaint will be acted upon.
  - B. Written notification to the complainant of the results of the review, including a statement that the complainant may appeal to the AAA if dissatisfied with the results of the service provider's preview.
  - C. Confidentiality provisions to protect the consumer's right to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.
- II.** Service providers must notify all older individuals of the grievance process by:
  - A. Posting notification of the grievance process in visible and accessible areas.
  - B. Advising homebound older individuals of the process either orally in writing upon contact with the individuals.
- III.** If the complaint is not resolved to the satisfaction of the older individual or persons authorized to act on their behalf, the complaint must be forwarded to the AAA Director in writing. If a complainant cannot submit a written complaint, the AAA shall:
  - A. Verbally accept the complaint.
  - B. Prepare a written complaint.
  - C. Have the complainant sign the written complaint, although not necessarily prior to the commencement of the informal review.
- IV.** If the complaint submitted to the AAA Director is not resolved to the satisfaction of the older individual or persons authorized to act on their behalf, the complaint must be forwarded to the Social

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Services Agency Director in writing for a final grievance resolution. If a complainant cannot submit a written complaint, the AAA shall:

- A. Verbally accept the complaint.
- B. Prepare a written complaint.
- C. Have the complainant sign the written complaint, although not necessarily prior to the commencement of the review.

**V.** The AAA's grievance process shall:

- A. Formally be adopted by the AAA's governing board.
- B. Distributed to both of the following:
  - 1. All Service Providers within the PSA.
  - 2. Organizations and locations where older individuals congregate.



**LANGUAGE ACCESS REQUIREMENTS FOR CONTRACTORS**

- I.** The Alameda County Social Services Agency (SSA) has developed and adopted a Master Plan on Language Access to ensure its limited-English proficient (LEP) clients are provided with language accessible services and communications. Under the plan's provisions, community-based organizations (CBOs)/contractors whose services are contracted by the SSA:
- A. Shall clearly disclose language access capabilities in relationship to the population served.
  - B. Shall have a plan in place—available for review upon request by County staff—for referring clients whose language needs the contractor can't accommodate.
  - C. Shall permit County staff to conduct ongoing monitoring of contracted services for compliance with provisions of the County's Language Access Plan.
  - D. Shall provide the County with a list and copies of all printed contract-related marketing/promotional/education-related materials (including languages materials are printed in).
- II.** The SSA shall aid contracted CBOs in expanding language interpretation services through:
- A. Providing CBOs/contractors with training, materials and instruction on how to effectively refer LEP clients to appropriate language resources.
  - B. Including service-marketing plan requirements in requests for proposals (RFPs) and contracts with CBOs that propose to offer language services (including appropriate outreach and notification of programs and services) to the LEP community and customers.
  - C. Developing a monitoring process of contracted services to ensure high-quality language accessible services are always provided to LEP clients.
  - D. Providing CBOs/contractors with access to **GLOBO**, a 24-hours-a-day, 365-days-a-year telephone language interpretation service in over 100+ languages—to supplement on-site language access services.

## Attachment C

Approved by OMB  
0348-0046**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application _____ b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing _____ b. material change  <b>For material change only:</b> Year _____ quarter _____ Date of last report _____
<b>4. Name and Address of Reporting Entity:</b> _____ Prime _____ Subawardee Tier _____, if Known:  Congressional District, if known: 4c	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	<b>Signature:</b> _____ <b>Print Name:</b> _____ <b>Title:</b> _____ <b>Telephone No.:</b> _____ <b>Date:</b> _____	
<b>Federal Use Only</b>	<b>Authorized for Local Reproduction</b> <b>Standard Form - LLL (Rev. 7-97)</b>	

**SCA Procurement Contract No. 25720****INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

## EXHIBIT B

### TERMS AND CONDITIONS OF PAYMENT

#### I. FUNDING

- A. The parties to this Agreement recognize that there are funding uncertainties at the Federal, State and County levels which may impact the County's dollar allocations for contracted services. Without prejudice to the other provisions of the contract, and with particular reference to Standard Terms and Condition #20 (termination provision) it is mutually agreed that the total dollar amount of this Agreement may be reduced and/or adjusted by the County during the term of the Agreement due to reductions in Federal, State or County funding. Should such a reduction or adjustment be required, the County shall provide the Contractor with written notice at least 30 days prior to the effective date of such reduction or adjustment. Total payment under the terms of this Agreement will not exceed the total amount of \$136,000. This cost includes all taxes and all other charges.
- B. Contractor shall expend all funds received hereunder in accordance with this Agreement.
- C. Contractor is encouraged to seek and obtain alternate and additional funding sources to enhance or expand their program.
- D. Contractors with Older Americans Act (OAA) Title III-E funds agree to provide, at a minimum, 25% match from non-federal sources as part of this contract. All other Older Americans Act funded contracts (III-B, III-C, III-D, V, and VII) agree to provide a minimum 10% match.
- E. County General Funds: If during the term of this contract the Board of Supervisors approves a cost-of-living adjustment, such an adjustment being at the County's discretion, an increase may be effective retroactively to July 1 of the current contract year and will change the contract total dollar amount accordingly.
- F. Funding under this Agreement will not duplicate funding from other sources. Should future funding duplicate the funding under this contract, the invoices to the County of Alameda shall be reduced accordingly by the amount of duplicate funding.
- G. Contractor assures that voluntary contributions shall be allowed and may be solicited in accordance with the following requirements [OAA § 315(b)]. Each service provider shall:
  - 1. Establish appropriate procedures to safeguard and account for all contributions.

2. Use all collected contributions to expand the services for which the contributions were given and to supplement (not supplant) funds received under this Act.

## **II. BUDGET**

Contractor shall use all payments solely in support of the program budget, set forth as follows:

### **A. Program Budget – Exhibit B-1**

1. Program Budget – This Agreement shall include a Program Budget submitted by Contractor entitled “Exhibit B-1”.
2. Proposed variations significantly affecting the intent or scope of this Agreement must be submitted to and approved by the County Board of Supervisors as an amendment to the agreement.
3. For Older Americans Act (OAA) funded agreements, contributions/donations made by Title III clients for services under this contract may be identified as Program Income. Donations/Program Income shall be for allowable program expenditures and must be spent before the end of the agreement term. Donations/Program Income shall not be accumulated or carried over from one agreement period to another without prior approval from and under conditions specified by the County.

### **B. Property / Equipment**

Property/Equipment with per unit cost of \$5,000 or more requires justification and prior approval from CDA/AAA.

1. Property acquired under this Agreement, which meets any of the following criteria is subject to the reporting requirements is subject to the reporting requirements:
  - a. Has a normal useful life of at least one (1) year,
  - b. Has a unit acquisition cost of at least \$5,000 (a desktop or laptop setup, including all peripherals is considered a unit, if purchased as a unit),
  - c. All computing devices, regardless of cost (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers, tablets, smartphones, and cellphones),
  - d. All portable electronic storage media, regardless of cost (including but not limited to, thumb/flash drives and portable hard drives),
  - e. Is purchased with OAA funding and used to conduct business under this Agreement.
2. Purchase of Property

- a. Property shall be purchased before June 30 of the applicable Fiscal Year.
- b. Property shall be purchased with Contractor or Subcontractor funds and reimbursed by the AAA with OAA funding.
- c. Contractor shall notify the AAA within 24 hours of taking physical possession of the purchased property.
- d. Property shall be assigned a CDA Inventory Control Number. The assigned CDA Inventory Tag shall be affixed to the corresponding physical property.

### 3. Tracking Purchased Property

Contractor shall keep track of property purchased by either the Contractor or the Subcontractor with funds awarded under the terms of this Agreement or any predecessor Agreement for the same purpose. Contractor shall record, at minimum, the following information when property is acquired unless further restricted:

- a. Date acquired
- b. Item Description
- c. CDA tag number identifying it as CDA property
- d. Serial number
- e. Purchase cost
- f. Fund source

### 4. Disposal of Property

- a. Prior to disposal of any property purchased by Contractor or the Subcontractor with funds from this Agreement or any predecessor Agreement, Contractor must obtain approval from AAA for all reportable property as defined in Section D.1. of this Article. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from CDA. Contractor shall email to AAA the electronic version of the Request to Dispose of Property (CDA 248). Once approval for disposal has been received from CDA, the item(s) shall be removed from the Contractor's inventory report.
  - b. Contractor must remove all confidential, sensitive, or personal information from CDA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to magnetic tapes, flash drives, personal computers, personal digital assistants, cell or smart phones, multi-function printers, and laptops.
5. Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
  6. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.

7. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project and shall assume responsibility for replacement or repair of such property during the period of the project, or until Contractor has complied with all written instructions from CDA/AAA regarding the final disposition of the property.
8. In the event of Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity or to the State.
9. To exercise the above right, no later than 120 days after termination of this Agreement or notification of the Contractor's dissolution, the State will issue specific written disposition instructions to the Contractor.
10. Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
  - a. Another CDA program providing the same or similar service
  - b. Another CDA-funded program
11. Contractor may share use of the property and equipment or allow use by other programs, upon written approval from CDA. As a condition of the approval, CDA may require reimbursement under this Agreement for its use.
12. Contractor or subcontractors shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
13. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.
14. Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

**C. Program Income**

Revenue generated by the Contractor or the subcontractor from contract-supported activities and may include:

1. Voluntary gifts of dollar contributions and donations received from a participant or other party for services received.
2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.

3. Royalties received on patents and copyrights from contract-supported activities.
4. Proceeds from the sale of goods created under CDA grant funds.
5. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.
6. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned (except as noted in #9 below.).
7. For Title IIIB, IIIC, IIID, IIIE, VII Ombudsman, and VII Elder Abuse Prevention programs, Program Income must be spent before contract funds (except as noted in. #9 below) and may reduce the total amount of contract funds payable to the Contractor.
8. For Title IIIB, IIIC, IIID, IIIE, VII Ombudsman, and VII Elder Abuse Prevention programs, if Program Income is earned in excess of the amount reported in the Area Plan Budget, the excess amount may be deferred for use in the first quarter of the following Contract period, which is the last quarter of the federal fiscal year.
9. If Program Income is deferred for use it must be used by the last day of the federal fiscal year and reported when used.
10. Program Income may not be used to meet the matching requirements of this Agreement.
11. Program Income must be used to expand baseline services.

**D. One-Time-Only (OTO) Funds**

1. OTO funds are non-transferable between funding sources. This means that OTO funds can only be used in the program in which it was accrued.
2. OTO funds can only be awarded to a subcontractor that has a valid contract with the AAA. All contracts shall be procured either through an open and competitive procurement process pursuant to 22 CCR 7352 or through a non-competitive award pursuant to 22 CCR 7360.
3. Titles III and VII federal Program OTO funds shall only be used for the following purposes:
  - a. The purchase of equipment that enhances the delivery of services to the eligible service population.



- b. Home and community-based projects that are approved in advance by CDA/AAA and are designed to address the unmet needs of the eligible service population identified in the Area Plan.
  - c. Innovative pilot projects that are approved in advance by CDA/AAA and are designed for the development or enhancement of a comprehensive and coordinated system of services as defined in 45 CFR 1321.53(a) (b).
  - d. OTO funds can be used to maintain or increase baseline services. However, AAAs shall assure that services funded with OTO funds will not create an expectation of service delivery beyond the current Contract period. Expenditures for baseline services do not require advance CDA approval.
4. NSIP OTO funds shall only be used to purchase food used in the Elderly Nutrition Program.

**E. Matching Contributions**

"Matching Contributions" means local cash and/or in-kind contributions made by the Contractor, a subcontractor, or other local resources that qualify as match for the contract funding.

- 1. Minimum matching requirements are calculated on net costs, which are total costs less program income, non-matching contributions, and State funds.
- 2. Cash and/or in-kind contributions may count as match if such contributions are used to meet program requirements.
- 3. Any matching contributions (cash or in-kind) must be verifiable from the records of the Contractor.
- 4. Matching contributions must be used for allowable costs in accordance with the OMB cost principles.
- 5. Matching contributions generated in excess of the minimum required are considered overmatch.
- 6. Program overmatch from Title III B or C cannot be used to meet the program match requirement for Title III E.

**F. Indirect Costs**

Costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.

1. The maximum reimbursement amount allowable for indirect costs is ten percent (10%) of the Contractor's Modified Total Direct Costs (MTDC), excluding in-kind contributions and nonexpendable equipment.
2. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate accepted by all federal awarding agencies or an allocation plan documenting the methodology used to determine the indirect costs.
3. Indirect costs exceeding the ten percent (10%) maximum may be budgeted as in-kind for purposes of meeting matching requirements in Title III and VII programs only. Contractors must receive prior approval from federal awarding agency prior to budgeting the excess indirect costs as in-kind.
4. For major Institutes of Higher Education and major nonprofit organizations, indirect costs must be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). [2 CFR 200.414(a)] [45 CFR 75.414(a)]

#### **G. Travel and Per Diem**

1. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the County in accordance with the AAA rules and regulations.
  - a. In County:  
Mileage/Per Diem (meals and incidentals)
  - b. Out of County:  
Mileage/Per Diem (meals and incidentals)/Lodging
2. This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by AAA, between the AAA rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the AAA.

### **III. Budget Revision Procedures**

- A. Contractor shall be reimbursed in accordance with the Agreement budget as detailed in *Exhibit B-1*. Any budget adjustments, revisions to the service categories and service

units within the contract must be approved by SSA Finance prior to submitting invoices for payment to the County.

- B. Contractor must submit a formal written (via e-mail) request for budget adjustment to SSAinvoices@acgov.org for any Agreement budget adjustment with justification for requested expenditure revisions inclusive of specific impacts to current services being delivered. The request will be forwarded to the SSA Program Department for approval.
- C. No supplemental billing will be accepted without Contractor's prior notification and approval by SSA Program Department of the need and justification for revisions of the service categories, service units or contract budget (line-items or unit costs).
- D. The County Auditor Controller's Office will not pay for unauthorized service categories, service units and budget line-items that are revised or rendered by Contractor that are not approved by SSA Program Department and/or for claimed services that contract program monitoring findings indicate have not been provided.

#### **IV. Reimbursement**

- A. "Reimbursable item" also means "allowable cost" and "compensable item."
- B. "Disallowed costs" means those charges determined to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award. (2 CFR 200.31 and 45 CFR 75.2)
- C. "Questioned Costs" means a cost that is questioned by the auditor because of an audit finding which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds; where the costs, at the time of the audit, are not supported by adequate documentation; or where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances. (2 CFR 200.84 and 45 CFR 75.2).
- D. "Recoverable cost" means the state and federal share of the questioned cost.
- E. Contractor shall be reimbursed at the reimbursement rate as detailed in Exhibit B-1.
- F. Services should be delivered equitably during the 12 months of the contract period. Invoice amounts should be claimed based on actual costs in arrears. Expenditure of funds should be at the rate of approximately 1/12 per month, not to exceed 55% at six months.
- G. Contractors may request a waiver of this policy through the Program Liaison when invoicing in either of two situations: (1) Where there are under-expenditures from prior invoice periods which may be used by Contractor to recover for actual costs incurred/services provided in the current period when current expenditures/services

provided have exceeded the prorated amount, or (2) For line-item invoices where it is necessary for the Contractor to invoice for large one-time, unscheduled or unusual costs that would cause the monthly prorated amount to be exceeded (e.g., equipment, insurance premiums).

Approval of a billing variation by the Program Liaison does not alter the Contractor's responsibility to the annual budget, unless otherwise approved, nor does it alter responsibility to fulfill the scope of services of the contract.

- H. The County may, at its option, grant Contractors an advance payment that will not exceed 1/12 of the Agreement amount. Advance payments will not be made in connection with entitlement programs such as NSIP. An advance payment is granted on a case-by-case basis based upon critical financial needs and will be made only once during the fiscal year using the County of Alameda Cash Advance Policy.
- I. Where Agreement payments are allowed for personal property (capital equipment) based on actual costs, title to all personal property having a unit purchase price of \$5,000 or more, acquired by Contractor in connection with this Agreement or the services rendered pursuant thereto shall vest in the County. The property shall be returned to the County at the expiration or termination of the Agreement.
- J. Contractors shall submit all claims for reimbursement under the contract within thirty (30) days after the ending of the Agreement. All claims submitted after thirty (30) days following the ending date of the Agreement will not be subject to reimbursement by the County.

Any "obligations incurred" included in claims for reimbursements and paid by the County which remain unpaid by the Contractor after thirty (30) days following the ending date of the Agreement will be disallowed under audit by the County.

## **V. Invoice Submission Requirements**

The Social Services Agency Finance Department has established a centralized Payments Unit. This unit will be your point of contact for all payment and invoicing matters.

- A. Contractors must submit all invoices and payment questions to [SSAInvoices@acgov.org](mailto:SSAInvoices@acgov.org).
- B. Invoices must contain the following elements:
  - 1. Must be on company letterhead that includes name, address, and Agreement information.
  - 2. For Community Based Organizations, must be signed by the head of the organization, i.e., Executive Director, CEO, etc.
  - 3. Document must contain the title *Invoice*.
  - 4. The Purchase Order (PO) number provided by the County.
  - 5. Remittance instructions/address.

6. The date of the invoice.
7. The date range for services provided.
8. A description of services provided.
9. The number of consumers who received services.
10. The number of services provided.
11. The amount of reimbursable expenditures.
12. If needed, itemization of any sales tax and delivery/postage charges.
13. The total amount owed/requested.
14. A *cc* indication at the bottom of the invoice with names of people who received courtesy copies.
15. The CEO or Executive Director must be included in the *cc*.
16. All data as required by your Agreement.

C. In order for the County to meet year end closing deadlines:

1. Contractors submitting monthly invoices must submit their May invoice and any prior late invoices by June 10. The June invoice must be submitted by July 15.
2. Contractors submitting quarterly invoices must submit their 4th quarter's April and May invoices by June 10. The June invoice must be submitted by July 15.

## VI. Required Reports

Contractors shall submit invoices, service reports and other reports as applicable to the Program Liaison, related to the services performed pursuant to this contract in such form and detail as may be required by the AAA.

- A. Invoices must be submitted on a monthly basis, within fifteen (15) calendar days after the close of the period being billed to the County.
- B. Service data for Registered Programs must be input into the Social Assistance Management System (SAMS) database monthly, within fifteen (15) calendar days after the close of the service period being reported to the County.
- C. Service Reports (AAA186) for Non-Registered Programs must be submitted on a monthly basis, within fifteen (15) calendar days after the close of the service period being reported to the County.
- D. Quarterly Reports must be submitted within twenty (20) calendar days after the close of the service period being reported to the County.
- E. The Annual Financial Close-Out Report must be submitted within twenty (20) calendar days after the close of the Fiscal Year being reported to the County.

## **EXHIBIT B-1**

### **PROGRAM BUDGET FY 23-24**

- I. Invoices and payments under the terms of this Agreement shall not exceed the maximum allowed reimbursement amount for the period shown below:  
  
July 1, 2023 – June 30, 2024: **\$47,363**
- II. Reimbursement rate for Senior Center Activities is \$17 per service unit.
- III. County will pay Contractor, upon successful completion and acceptance of services rendered, within thirty (30) days and upon receipt of monthly invoice.
- IV. Contractors must submit all invoices and payment questions to [SSAInvoices@acgov.org](mailto:SSAInvoices@acgov.org).

## EXHIBIT C

### INSURANCE REQUIREMENTS

#### COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the contractor maintains broader coverage and/or higher limits than the minimums shown below, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
<b>A</b>	<b>Commercial General Liability</b> Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
<b>B</b>	<b>Commercial or Business Automobile Liability</b> All owned vehicles hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability when extended to cover your business is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto or Hired and Non-Owned Autos Bodily Injury and Property Damage
<b>C</b>	<b>Workers' Compensation (WC) and Employers Liability (EL)</b> As required by State of California	WC: Statutory Limits EL: No less than \$1,000,000 per accident for bodily injury or disease
<b>D</b>	<b><u>Endorsements and Conditions:</u></b> <ol style="list-style-type: none"> <li><b>ADDITIONAL INSURED:</b> County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of <b>both</b> CG 20 10, CG 20 26, CG 20 33, or CG 20 38; <b>and</b> CG 20 37 if a later edition is used).</li> <li><b>DURATION OF COVERAGE:</b> All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained and evidence of insurance must be provided during the entire term of the Agreement and for at least five (5) years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work. Proof of workers' compensation insurance coverage is not required if contractor provides a signed Workers Compensation Written Declaration of Compliance.</li> <li><b>REDUCTION OR LIMIT OF OBLIGATION:</b> All insurance policies, including excess and umbrella insurance policies, shall be primary and non-contributory coverage at least as broad as ISO CG 20 10 04 13 as respects the County, its officers, officials, employees, or volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.</li> <li><b>SUBCONTRACTORS:</b> Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit.</li> <li><b>JOINT VENTURES:</b> If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> <li>Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above.</li> <li>Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured".</li> </ul> </li> <li><b>CANCELLATION OF INSURANCE:</b> Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice of cancellation provided to the County in accordance with policy terms and conditions.</li> <li><b>CERTIFICATE OF INSURANCE:</b> Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of insurance and applicable insurance endorsements as set forth in the provisions of this Agreement and this Exhibit C, in forms satisfactory to County, evidencing that all required insurance coverage is in effect. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.</li> </ol>	

## EXHIBIT D

### AUDIT REQUIREMENTS

The County contracts with various organizations to carry out programs mandated by the Federal and State governments or sponsored by the Board of Supervisors. Under the Single Audit Act Amendments of 1996 (31 U.S.C.A. §§ 7501-7507) and Board policy, the County has the responsibility to determine whether organizations receiving funds through the County have spent them in accordance with applicable laws, regulations, contract terms, and grant agreements. To this end, effective with the first fiscal year beginning on and after December 26, 2014, the following are required.

#### I. AUDIT REQUIREMENTS

##### A. Funds from Federal Sources:

1. Non-Federal entities which are determined to be subrecipients by the supervising department according to 2 CFR § 200.330 and which expend annual Federal awards in the amount specified in 2 CFR § 200.501 are required to have a single audit performed in accordance with 2 CFR § 200.514.
2. When a non-Federal entity expends annual Federal awards in the amount specified in 2 CFR § 200.501(a) under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or terms and conditions of the Federal award do not require a financial statement audit of the auditee, the non-Federal entity may elect to have a program-specific audit conducted in accordance with 2 CFR § 200.507 (Program Specific Audits).
3. Non-Federal entities which expend annual Federal awards less than the amount specified in 2 CFR § 200.501(d) are exempt from the single audit requirements for that year except that the County may require a limited-scope audit in accordance with 2 CFR § 200.503(c).

##### B. Funds from All Sources:

Non-Federal entities which expend annual funds from any source (Federal, State, County, etc.) through the County in an amount of:

1. \$100,000 or more must have a financial audit in accordance with the U.S. Comptroller General's Generally Accepted Government Auditing Standards (GAGAS) covering all County programs.
2. Less than \$100,000 are exempt from these audit requirements except as otherwise noted in the contract.



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Non-Federal entities that are required to have or choose to do a single audit in accordance with 2 CFR Subpart F, Audit Requirements are not required to have a financial audit in the same year. However, Non-Federal entities that are required to have a financial audit may also be required to have a limited-scope audit in the same year.

**C. General Requirements for All Audits:**

1. All audits must be conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States (GAGAS).
2. All audits must be conducted annually, except for biennial audits authorized by 2 CFR § 200.504 and where specifically allowed otherwise by laws, regulations, or County policy.
3. The audit report must contain a separate schedule that identifies all funds received from or passed through the County that is covered by the audit. County programs must be identified by contract number, contract amount, contract period, and amount expended during the fiscal year by funding source. An exhibit number must be included when applicable.
4. If a funding source has more stringent and specific audit requirements, these requirements must prevail over those described above.

**II. AUDIT REPORTS****A. For Single Audits**

1. Within the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of the audit period, the auditee must electronically submit to the Federal Audit Clearinghouse (FAC) the data collection form described in 2 CFR § 200.512(b) and the reporting package described in 2 CFR § 200.512(c). The auditee and auditors must ensure that the reporting package does not include protected personally identifiable information. The FAC will make the reporting package and the data collection form available on a web site and all Federal agencies, pass-through entities and others interested in a reporting package and data collection form must obtain it by accessing the FAC. As required by 2 CFR § 200.512(a)(2), unless restricted by Federal statutes or regulations, the auditee must make copies available for public inspection.
2. A notice of the audit report issuance along with two copies of the management letter with its corresponding response should be sent to the County supervising department within ten calendar days after it is submitted to the FAC. The County supervising department is responsible for forwarding a copy of the audit report,

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management letter, and corresponding responses to the County Auditor within one week of receipt.

**B. For Audits other than Single Audits**

At least two copies of the audit report package, including all attachments and any management letter with its corresponding response, should be sent to the County supervising department within six months after the end of the audit year, or other time frame as specified by the department. The County supervising department is responsible for forwarding a copy of the audit report package to the County Auditor within one week of receipt.

**III. AUDIT RESOLUTION**

Within 30 days of issuance of the audit report, the entity must submit to its County supervising department a corrective action plan consistent with 2 CFR § 200.511(c) to address each audit finding included in the current year auditor's report. Questioned costs and disallowed costs must be resolved according to procedures established by the County in the Contract Administration Manual. The County supervising department will follow up on the implementation of the corrective action plan as it pertains to County programs.

**IV. ADDITIONAL AUDIT WORK**

The County, the State, or Federal agencies may conduct additional audits or reviews to carry out their regulatory responsibilities. To the extent possible, these audits and reviews will rely on the audit work already performed under the audit requirements listed above.

Last revised: 1/2015

**EXHIBIT E**

**INTENTIONALLY OMITTED**

## EXHIBIT F

### COUNTY OF ALAMEDA DEBARMENT AND SUSPENSION CERTIFICATION

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

**The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:**

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

**If there are any exceptions to this certification, insert the exceptions in the following space.**

**Exceptions will not necessarily result in denial of award but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.**

**Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.**

CONTRACTOR: City of Emeryville

PRINCIPAL: Paul Buddenhagen TITLE: City Manager

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

## EXHIBIT G

### ADDITIONAL CONTRACT PROVISIONS – FEDERAL PROVISION

Funds used for payment of this Contract may be from or subject to reimbursement by state and/or federal funds. Some of these funding sources require additional contractual obligations and County and Contractor hereby agree to the following additional terms and conditions. The parties agree to each of these terms for reasons including, but not limited to, meeting all contracting requirements as set forth in 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. These terms supplement the General Terms and Conditions.

#### I. General Provisions

- A. **Remedies.** In the event of a breach by Contractor of any term or provision of this Agreement, the County shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by Contractor of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, Contractor shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.
- B. **Termination.** The County may suspend, terminate, or abandon the execution of any work by the Contractor under this Contract with or without cause at any time upon giving the Contractor prior written notice. In the event that the County should abandon, terminate, or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination, or abandonment, but in no event shall Contractor be entitled to more than the not to exceed amount of the Contract, or if applicable, the portion of the Contract being terminated.
- C. **Equal Employment Opportunity.** During the performance of this contract, Contractor agrees as follows:
  - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - 2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

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3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representatives of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted

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construction work: Provided, that if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Contractor and refer the case to the Department of Justice for appropriate legal proceedings.

These provisions are included in addition to the Equal Employment Opportunity Practices Provisions in the General Terms and Conditions and Contractor shall abide by both provisions.

- D. **Rights to Inventions Made Under a Contract or Agreement.** If this Contract is funded in whole or part by a Federal award of funds and the Contract and/or funding meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the Contractor (the "recipient or subrecipient") wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. This requirement applies to "funding agreements," but it does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."
- E. **Clean Air Act and the Federal Water Pollution Control Act.** The following provisions apply for all contracts in excess of \$150,000:
1. **Clean Air Act** (42 U.S.C. 7401–7671q).

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- a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b. The Contractor agrees to report each violation of the Clean Air Act to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

2. **Federal Water Pollution Control Act** (33 U.S.C. 1251–1387).

- a. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b. The Contractor agrees to report each violation of the Federal Water Pollution Control Act to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

F. **Debarment and Suspension.** In addition to the debarment and suspension requirements in the General Terms and Conditions and executed Debarment certificate, the following terms shall apply:

- 1. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters.
- 3. This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 4. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of the Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered contracts.



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- G. **Conflict of Interest.** By executing this Contract, Contractor certifies that it does not know of any fact which constitutes a violation of Section 66 of County's Charter; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the County if it becomes aware of any such fact during the term of this Contract. In addition, Contractor shall be in full compliance with all other conflict of interest requirements, including those contained in 2 C.F.R. § 200.318.
- H. **Byrd Anti-Lobbying Amendment.** For any contract of \$100,000 or more, Contractor shall complete the required certification (included below) Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.
- I. **Procurement of Recovered Materials.**
1. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
    - a. Competitively within a timeframe providing for compliance with the Contract performance schedule;
    - b. Meeting Contract performance requirements; or
    - c. At a reasonable price.
  2. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
  3. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
- J. **Access to Records.**
1. The Contractor agrees to provide the County, the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
  2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

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3. The Contractor agrees to provide the Federal Awarding Agency or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
  4. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the Federal Awarding Agency or the Comptroller General of the United States.
- K. **Changes.** The cost of any change, modification, change order, or constructive change must be allowable, allocable, within the scope of a funding grant or cooperative agreement, and reasonable for the completion of project scope. Changes can be made by either party to alter the method, price, or schedule of the work without breaching the Contract by entering a written amendment executed by authorized representatives. The Contract may not be modified except by a written document signed by both parties. It is mutually understood and agreed that no alterations or variations of the terms of this Contract shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- L. **Seal, Logo, And Flags.** The Contractor shall not use the Department of Homeland Security, or any other Federal, state or local seals, logos, crests, or reproductions of flags or likenesses of agency officials without specific Federal Awarding Agency pre-approval.
- M. **Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that Federal financial assistance may be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, Federal Awarding Agency policies, procedures, and directives.
- N. **No Obligation of Federal Government.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.
- O. **Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
- P. **Local Preferences:** To the extent that any local preferences are prohibited by funding, SLEB and other local preferences and policies have already been or are waived.
- Q. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the following provisions, from 29 C.F.R §5.5(b) shall apply:
1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

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2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
  3. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
  4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- R. Domestic Preferences for Procurements.** As appropriate and to the extent consistent with law, the contractor and their subcontractor(s), to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:
1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  2. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- S. Prohibition on Contracting for Covered Telecommunications Equipment and Services.**
1. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA

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Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

2. Prohibitions.

- a. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- b. Unless an exception in paragraph (3) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
  - (1) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (2) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (3) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
  - (4) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

3. Exceptions.

- a. This clause does not prohibit contractors from providing—
  - (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- b. By necessary implication and regulation, the prohibitions also do not apply to:
  - (1) Covered telecommunications equipment or services that:
    - (a) Are *not used* as a substantial or essential component of any system; and
    - (b) Are *not used* as critical technology of any system.

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- (2) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

4. Reporting requirement.

- a. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (4)(b) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- b. The Contractor shall report the following information pursuant to paragraph (4)(a) of this clause:
  - (1) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (2) Within 10 business days of submitting the information in paragraph (4)(b)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

5. Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (5), in all subcontracts and other contractual instruments.

**T. License and Delivery of Works Subject to Copyright and Data Rights.** In order to comply with 2 C.F.R. § 200.315, Contractor grants to the County, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the County or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the County data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the County.

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- U. **Affirmative Socioeconomic Steps for Subcontracts.** As a condition for the approval of any subcontract, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

II. **Construction and Repair Work.** The following provisions apply to construction or repair work:

**Compliance with the Davis-Bacon Act and Copeland "Anti-Kickback" Act.** For all prime construction contracts in excess of \$2,000 the following terms shall apply:

A. **Davis-Bacon Act**

1. All transactions regarding this Contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
3. Additionally, contractors are required to pay wages not less than once a week.

B. **Copeland "Anti-Kickback" Act**

1. Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Awarding Agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**EXHIBIT G-1****Certification for Contracts, Grants, Loans, and Cooperative Agreements  
CERTIFICATION REGARDING LOBBYING (APPENDIX A, 44  
C.F.R. PART 18)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, City of Emeryville, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Date

Paul Buddenhagen  
\_\_\_\_\_  
Name

City Manager  
\_\_\_\_\_  
Title