

DOCUMENTS REQUIRED TO EXECUTE CONTRACT

Please return two sets of all contract pages in the order provided by the Agency on Aging.

The following contract documents require signatures and entries on both sets of documents.

Type entries and enter **original signatures in ink** on **both** sets of documents:

- ☐ **Page 2, Area Plan Grant Award Contract Signature Page**
Must include signature of individual named on Exhibit E, page 5, as having primary, hands-on involvement & oversight of day-to-day operations; and signature of individual authorized by governing board to execute the contract (see Appendix A).
- ☐ **Appendix A, Resolution of Authorization to Contract**
Must contain signature of chair of service provider's governing board.
- ☐ **Appendix B, Contractor Certification Clauses**
Must contain signature of individual authorized by governing board to execute the contract (see Appendix A).
- ☐ **Appendix C, Information Integrity and Security Statement**
Must contain signature of individual authorized by governing board to execute the contract (see Appendix A). Also, check appropriate box under "Certify" at bottom of page 2 to indicate 128-bit Encryption compliance status.
- ☐ **Appendix K, Request for Taxpayer Identification Number and Certification (W-9)**
Part II, Certification, must contain signature of individual authorized by governing board to execute the contract (see Appendix A). Only page 1, signature page required (do not submit pages 2-6).

The following contract documents require typed entries on both sets of documents:

- ☐ **Appendix D, Method of Providing Audit Compliance**
- ☐ **Exhibit B, Budget:** Email Excel version to Pbustamante@fmaaa.org and alucas@fmaaa.org; submit 2 hard copies with contract.
- ☐ **Exhibit E, Program Narrative:** Email Word version to hbennett@fmaaa.org and mrobinson@fmaaa.org; submit 2 hard copies with contract.
- ☐ **Exhibit F, Service Provider Emergency Resource Information**

Please attach two sets of the following to this page:

- ☐ 1. List of all proposed subcontractors for this Agreement (if any), and, following review of Agency on Aging contract, copy of proposed contract template to be used for subcontractors.
- ☐ 2. Certificate(s) of Insurance ***Please review Article XV of Agreement prior to arranging for certificate*** to ensure all contractual requirements for insurance certificate are met and ***specific contract language*** included on certificate.
- ☐ 3. Copy of IRS Determination Letter of Tax-Exempt Status if a non-governmental organization.
- ☐ 4. **Organizational chart**, including names and position titles for contracted program
- ☐ 5. **Job Description and Resume** of individual named on Exhibit E, page 5, who has primary, hands-on involvement and oversight of the day-to-day operations of the contracted program
- ☐ 6. List of Governing Board members
- ☐ 7. List of Advisory Council or Advisory Committee members (if applicable)
- ☐ 8. **Current documents** (i.e. flyers, brochures) used to promote the **contracted program**



October 6, 2025

Maria Reyna, District Manager
City of Del Rey
10649 Morro Ave
Del Rey, CA 93616

District Manager, Maria Reyna,

For the purpose of opening the Title III C1 Congregate Nutrition Program for Older Adults, the Fresno-Madera Area Agency on Aging's Governing Board has approved an award of \$16,750 in Older American Act (OAA) funds to the City of Del Rey.

Contract no: 26-0340, Title III C1 Congregate Nutrition Site Management:

Del Rey Community Center

\$16,750 Maximum expenditure

Please note, grant awards are contingent on sufficient funds made available from the State of California to the Agency on Aging and/or by the United States Government or the Budget Acts of the appropriate fiscal years for the purpose of these programs.

To Execute the Contract:

We will send the contract documents for completion and signature via DocuSign. Page i, Documents Required to Execute Contract, serves as a guide. All components will be provided electronically, and no physical copies are needed. The one exception is the Exhibit B – Budget Excel template, included with this letter, which must still be uploaded to DocuSign. Following the contract review process and provision of any necessary revisions, we will forward a fully executed contract. Please note that payments cannot be scheduled until the contract is approved and fully executed.

Historically, the Agency on Aging has provided 45 days for contract recipients to sign and return the contract (Agency on Aging Older American Act Grant Terms and Conditions, Article II. B). Providers may choose to delay the opening of their Congregate Nutrition site. Please notify the Agency on Aging of your target reopening date within 10 days of receipt of this contract by emailing Program Director, Hillaree Bennett, at hbennett@fmaaa.org.

Fresno-Madera Area Agency on Aging
Address: 2520 W. Shaw Lane, #101A • Fresno, CA 93711
Phone 559.214.0299 • Fax 559.243.5651 • Email admin@fmaaa.org



Additional Items Prior to Opening:

Because Congregate Nutrition sites are opening for the first time or reopening, in addition to our standard contract agreement, three additional items are critical to this process:

- One person at each site must be responsible for the day-to-day management and oversight of the Congregate Nutrition Program. This individual must obtain a California "ServSafe" Food Manager Certificate *or* the FMAAA Food Safety Certificate.
- All food handlers for the Congregate Nutrition Program must obtain a California Food Handlers Card *or* the FMAAA Food Safety Certificate
- One staff member (paid or volunteer) must be CPR certified, and the CPR certificate must be on file with the Agency and valid at all times. This individual must also be onsite during meal service.

12-Month Funding Cycle:

Please note that the "12-Month Funding Cycle" begins the day that the contract is fully executed and the Congregate Nutrition program begins at your site. The end date of the 12-Month Funding Cycle cannot go past the contract's end date of June 30, 2026. Please ensure staff who work on the contracted program are aware of the contract requirements.

Please contact me at 559-319-0863 with any questions.

Respectfully,

Hillaree Bennett
Program Director
hbennett@fmaaa.org

Area Plan Grant Award

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**CONTRACT BETWEEN
CITY OF DEL REY
AS SERVICE PROVIDER
AND
FRESNO-MADERA AREA AGENCY ON AGING
(HEREINAFTER REFERRED TO AS AGENCY ON AGING)**

**2520 WEST SHAW LANE, SUITE 101A, FRESNO, CA 97311
MAILING ADDRESS: 2037 WEST BULLARD AVENUE, #512, FRESNO, CA 93711**

- A. Name and principal address of service contractor (hereinafter referred to as service provider):
**City of Del Rey
PO Box 186
10649 Morro Ave
Del Rey, CA 93616**
- B. The starting date of this Agreement shall not precede the date the Agreement is signed by both parties hereto. The term of this Agreement is from July 1, 2025 to June 30, 2026, subject, however, to earlier termination as provided herein.
- C. No expenditure or obligation for the funding allocation for the July 1, 2025 through June 30, 2026 period may be incurred after June 30, 2026.
- D. Maximum funds available for the following program, **contingent upon sufficient funds made available from the State of California to the Agency on Aging and/or by the U.S. Government or the Budget Acts of the appropriate fiscal years for the purposes of this program:**

Approved by Fresno-Madera Area Agency on Aging Governing Board on September 10, 2025.			
Federal Grantor:	U.S. Department of Health and Human Services		
Pass Through Grantor:	Fresno-Madera Area Agency on Aging		
Older Americans Act Title:	Title III C1 Congregate Nutrition, Federal CFDA No. 93.045		
Contract No.:	26-0340	Service:	Site Management
Site	12-Month Funding Cycle	Contract Period Grant Amount	
Del Rey	07/01/2025 to 06/30/2026	\$16,750	
Total Term of Contract Grant Award:		Maximum Expenditure \$ 16,750	

- E. This document together with any attached program exhibits, assurances, budgets, and narratives is a firm agreement to provide services for older Americans in Fresno and/or Madera counties (including cities contained therein) as specified in a manner consistent with the intent of, and regulations applicable to, service programs under Title III/VII of the Older Americans Act as amended.
- F. The provisions of the Area Plan Grant Award Terms and Conditions Declaration (Articles I through XX) attached thereto, plus all enclosures listed, herein, constitute a part of this contract.

FOR SERVICE PROVIDER:

*Signature of individual named on Exhibit E, page 5, as having
primary, hands-on involvement and oversight of the day-to-day
operations of the contracted program.*

Date

Type Name

Title

Signature of Authorized Contracting Official
(Refer to Appendix A)

Date

Type Name

Title

Contractor Federal Employer I.D. Number

FOR FRESNO-MADERA AREA AGENCY ON AGING:

Signature

Date

Jamie Sharma
Type Name

Executive Director
Title

**FRESNO-MADERA AREA AGENCY ON AGING
AREA PLAN GRANT AWARD
TERMS AND CONDITIONS DECLARATION**

This Agreement incorporates the terms and conditions which support an award of Area Plan Funds. Activities under this award shall be carried out in accordance with Title III and Title VII of the Older Americans Act of 1965, as amended (United States Code Title 42, Section 3001); the program regulations and policy directives relating thereto; federal and State laws; and the California Welfare and Institutions Code, Sections 9000-9023, all of which are, or may be, operative during the term of this sub-grant award.

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A. "Agency on Aging" and "FMAAA" means the Fresno-Madera Area Agency on Aging interchangeably.
- B. "Agreement" or "Contract" shall mean the Fresno-Madera Area Agency on Aging Area Plan Agreement; Area Plan Grant Award Terms and Conditions Declaration (Articles I through XX); Appendices; Program Exhibits; Budget Display; Attachments; Amendments; and any other documents incorporated by reference, unless otherwise provided in this Article.
- C. "Allocation" means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives. (2 CFR §200.1 and 45 CFR §75.2)
- D. "Contractor" or "Service Provider" means the legal entity awarded funds under this Agreement and which is accountable to the Agency on Aging, the State, and/or federal government for use of these funds and which is responsible for executing the provisions for services provided under this Agreement.
- E. Cal. Civ. Code: California Civil Code (CIV)
- F. Cal. Gov. Code: California Government Code (GC)
- G. Cal. Pub. Con. Code: California Public Contract Code (PCC)
- H. "CCR" means California Code of Regulations.
- I. "CFR" means Code of Federal Regulations.

- J. "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)
- L. HHS: Means United States Department of Health and Human Services
- M. OAA: Means Older Americans Act
- N. OCA: means Welfare and Institutions Code §9541 of the Mello-Granlund Older Californians Act
- O. OMB: Means Federal Office of Management and Budget
- P. "In-Kind Contributions" means the value of non-cash contributions donated to support the project or program (e.g. property, service, etc.).
- Q. "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.
- R. "Program Income" means revenue generated by an Area Agency on Aging or Contractor from contract-supported activities. Program Income is:
 - 1. Voluntary contributions received from a participant or responsible 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 an Agency on Aging grant of funds.
- S. "PSA 14" means the State Planning and Service Area comprised of Fresno and Madera Counties.
- T. "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).

- U. "Recoverable cost" means the questioned cost identified from an audit.
- V. "Reimbursable item" also means "allowable cost" and "compensable item."
- W. "State" and "Department" means the State of California and the California Department of Aging (CDA) interchangeably.
- X. "Subcontract" means any form of legal agreement between the Contractor and the Subcontractor, including an agreement that the Contractor or Subcontractor would consider to be a contract, including vendor type Agreements for providing goods or services under this Agreement.
- Y. "Subcontractor" means the legal entity that receives funds from the Contractor to carry out any part of a federal award identified in this Agreement.
- Z. "USC" means United States Code.
- AA. "Vendor" means an entity selling goods or services to the Contractor or Subcontractor during the Contractor or Subcontractor's performance of this Agreement.
- BB. "W&I" means California Welfare and Institutions Code.
- CC. As used throughout this Agreement, the term "shall" is mandatory; the term "may" is permissive.
- DD. The terms and conditions of this grant award and other requirements have the following order of precedence if there is any conflict in what they require:
 - 1. The Grant Terms and Conditions
 - 2. The Older Americans Act and other applicable federal statutes and their implementing regulations.
 - 3. If applicable, the Older Californians Act and other California State codes and regulations.
 - 4. Contract Agreement, including Area Plan Grant Award Terms and Conditions Declaration, all Appendices, all Exhibits, and any amendments thereto.
 - 5. Program Memos and other guidance issued by the California Department of Aging.
 - 6. Any other documents incorporated herein by reference, including, if applicable, the federal Health and Human Services (HHS) terms and

conditions found in Part II of the HHS Grant Policy Statement. The HHS Grant Policy Statement is available under the HHS Policy Requirements Topic at: <https://www.hhs.gov/grants.grants-grants-policies-regulations/index/html>

ARTICLE II. AGREEMENT

- A. All elements of this Agreement, as defined in Article I, Section B, and as approved by the Agency on Aging in making this award, are hereby incorporated by reference, as if fully set forth herein.
- B. Time is of the essence in this Agreement. All contracts must be signed and returned to the Fresno-Madera Area Agency on Aging within forty-five (45) days of the date on the contract cover letter. If the signed contract is not returned by the designated date and there has been no approval granted, then the funds may be reallocated by the Fresno-Madera Area Agency on Aging Governing Board. The Agency on Aging will send a Notice of Termination of Negotiations to the non-responsive Service Provider on the 46th day from the date of the contract cover letter by certified mail. A copy of the Fresno-Madera Area Agency on Aging Appeal Procedure will be sent with the letter.
- C. A copy of this Agreement is on file and available for inspection at the Fresno-Madera Agency on Aging, 2520 West Shaw Lane, Suite 101A, Fresno, California, 93711.

ARTICLE III. TERM OF AGREEMENT

- A. This Agreement is of no force or effect until signed by both parties hereto and approved by the Agency on Aging. The Contractor may not commence performance until such approval has been obtained, or until a signed Letter of Authority has been provided by the Agency on Aging.
- B. The term of this Agreement is from July 1, 2025, through June 30, 2026, at which time the Agreement expires, subject however, to earlier termination or cancellation as herein provided. Contract awards are limited to a one-year period; however, at the discretion of the Agency on Aging, contracts may be renegotiated up to a maximum of three additional one-year periods subject to annual renegotiation and availability of federal, State, and local funding. Renegotiation shall consider service provider expenditures, service units, and cost standards during renegotiation.
- C. Should the Contractor or subcontractor begin work in advance of receiving notice that the Agreement is approved, and before obtaining a signed Letter

of Authority from the Agency on Aging, that work may be considered as having been performed at-risk as a volunteer and may not be reimbursed or compensated.

ARTICLE IV. REASONABLENESS OF COMPENSATION

Compensation for work or services performed under this Agreement shall be reasonable and based on an analysis of job requirements and comparability with similar work or services in the local labor market.

ARTICLE V. ASSURANCES

A. Agreement Authorization

1. If a public entity, the Contractor shall submit to the Agency on Aging a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private entity, the Contractor shall submit to the Agency on Aging an authorization by the Governing Board of the Contractor to execute this Agreement, referencing this Agreement number. These documents, including minute orders, must also identify the action taken.
2. Documentation in the form of a resolution, order, or motion by the Governing Board of the Contractor is required for the original and each subsequent amendment to this Agreement. This requirement may also be met by a single resolution from the Governing Board of the Contractor authorizing the designee to execute the original and all subsequent amendments to this Agreement.

B. Administration

1. The Contractor shall be a public entity, private nonprofit entity, or Joint Powers Authority (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
 - a. Any grant awards to for-profit entities are subject to review and approval by the California Department of Aging prior to issuance of a contract by the Agency on Aging to the Contractor. [22 CCR §7362]
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any subcontracting private entity or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.

3. Failure to maintain good standing by the contracting entity shall result in suspension or termination of this Agreement with the Agency on Aging until satisfactory status is restored. Failure to maintain good standing by a subcontracting entity shall result in suspension or termination of the subcontract by the Contractor until satisfactory status is restored.
4. This Agreement is not assignable by the Contractor, either in whole or in part, without the written consent of the Agency on Aging in the form of a formal written amendment.
5. The Contractor, and the agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State or the Agency on Aging.
6. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have full force and effect and shall not be affected.

C. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
 - a. Are not presently debarred or suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency. [45 CFR §92.35]
 - b. Have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in Section C.1.b of this Article.
 - d. Have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, State, or local) terminated for cause or default.

2. The Contractor shall report immediately to the Agency on Aging, in writing, any incidents of alleged fraud and/or abuse by either the Contractor or subcontractors. The Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Agency on Aging.
3. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to the Subcontractor's debarment/suspension status.
4. The Contractor shall notify the Agency on Aging immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

D. Law, Policy and Procedure, Licenses, and Certificates

1. The Contractor agrees to administer this Agreement and require any subcontractors to administer their subcontracts in accordance with this Agreement, and with all applicable local, State, and federal laws and regulations including, but not limited to, 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.
2. The Contractor shall ensure compliance with the following federal regulations:
 - a. Clean Air Act, as amended. (42 USC § 7401)
 - b. Federal Water Pollution Control Act, as amended. (33 USC § 1251et seq.)
 - c. Environmental Protection Agency Regulations (40 CFR 29) (Executive Order 11738)

E. Provision of Services, Staffing, and Standards of Work

1. The Contractor shall ensure the provision of services under this Agreement, as specified by the attached exhibits, which are hereby incorporated by reference. Inadequate performance or failure to make progress so as to endanger performance of this Agreement may result in imposition of sanctions as described in Appendix F, *Sanction Policy*, or termination of the Agreement as described in Article XVII, *Termination*.
2. The Contractor shall make every effort to meet the goals and objectives stipulated in this Agreement. Performance shall not be unilaterally

reduced or otherwise changed without prior consultation with, and written approval of, the Agency on Aging. A service unit reduction that impacts the Agency's ability to provide service levels defined in its Area Plan or Area Plan Update service unit objectives requires:

- a. Written approval from the California Department of Aging to the Agency on Aging if such reduction is greater than ten percent (10%).
 - b. An Amendment to the Agency on Aging's Area Plan if such reduction is greater than twenty percent (20%), including a public hearing; approval by the Agency's Governing Board and Advisory Council chairpersons and the Agency's Executive Director; and approval by the California Department of Aging. [22 CCR §7306(a)]
3. The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.
 4. The Contractor shall maintain adequate staff to meet the Contractor's obligations under this Agreement.
 5. The Contractor shall make staff available to the California Department of Aging and the Agency on Aging for training and meetings, which the California Department of Aging or the Agency on Aging may find necessary from time to time.

F. Payroll Taxes and Deductions

The Contractor shall promptly forward payroll taxes, insurances, and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies as required by law.

G. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (Appendix B), which are hereby incorporated by reference. In addition, Contractor shall ensure compliance with the following:

1. Equal Access to Federally-Funded Benefits, Programs, and Activities

Contractor shall ensure compliance with Title VI of the Civil Rights Act of 1964 (42 USC §2000d; 45 CFR §80), which prohibits recipients of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

2. Equal Access to State-Funded Benefits, Programs, and Activities

Contractor shall, unless exempted, ensure compliance with the requirements of California Government Code §11135 et seq., and 22 CCR 11140 et seq., which prohibit recipients of State financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [22 CCR §98323]

3. California Civil Rights Laws (Public Contract Code §2010)

- a. For contracts of \$100,000 or more, executed or renewed after January 1, 2017, the Contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code).
- b. For contracts of \$100,000 or more, executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

4. Contractor assures the State that it complies 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 USC §12101 et seq.]

5. The Contractor shall not require proof of age, citizenship, or disability as a condition of receiving services.

6. Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

H. Information Confidentiality and Security:

1. This Information Confidentiality and Security Requirements section sets forth the information privacy and security requirements the contractor is obligated to follow with respect to all personal, confidential, and sensitive information (as defined herein) disclosed to the contractor, or collected, created, maintained, stored, transmitted, or used by the contractor for or on behalf of the Agency on Aging pursuant to this agreement. (Such personal, confidential, and sensitive information is referred to here as PSCI.) Agency on Aging and the subcontractor desire to protect their

privacy and provide for the security of Agency on Aging PSCI pursuant to this section of this agreement and in compliance with state and federal laws applicable to Agency on Aging and California Department of Aging PSCI.

The terms of this section shall apply to all contracts, subcontracts, and subawards made by the AAA in furtherance of this agreement and services provided in accordance with this agreement. The contractor shall require its agents, subcontractors, or independent consultants (collectively, agents) to conform to this section regarding California Department of Aging PSCI.

2. Definitions

a. **Breach:**

- i. The unauthorized acquisition, access, use or disclosure of California Department of Aging and the Agency on Aging PSCI in a manner in which compromises the security, confidentiality, or integrity of the information; or
- ii. The same definition of "breach of the security system" set forth in California Civil Code section 1798.29 subdivision (f); or
- iii. The same as the definition of "breach" set forth in the Health Insurance Portability and Accountability Act Privacy Rule, 45 Code of Federal Regulations 164.402.

b. **Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code section 7920.000 Et seq.).

c. **Disclosure:** the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information

d. **PSCI:** "personal information", "sensitive information", and "confidential information" (as these terms are defined herein)/.

- e. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It is CDA's policy to consider all information about individuals private unless such information is determined to be a public record. Personal Information also includes the following:
 - i. **Notice-Triggering Personal Information:** Specific items of personal information (name plus Social Security number, driver license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying information assigned to the individual, such as finger or voice print or a photograph. See Civil Code section 1798.29.
 - ii. **Protected Health Information (PHI):** The term "PHI" refers to and includes both "PHI" as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.
- f. **Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 7920.000 Et seq.).
- g. **Security Incident:**
 - i. A breach or attempted breach; or
 - ii. The attempted or successful unauthorized access, disclosure, modification, or destruction of Agency on Aging or CDA PSCI, in violation of any state or federal law or in a manner not permitted under this agreement; or
 - iii. The attempted or successful modification or destruction of, or interference with, the contractor's system operations in an information technology system, that negatively impacts the confidentiality, availability, or integrity of Agency on Aging PSCI; or
 - iv. Any event that is reasonably believed to have compromised the

confidentiality, integrity, or availability of an information asset, system, process, data storage, or transmission. Furthermore, an information security incident may also include an event that constitutes a violation or imminent threat of violation of information security policies or procedures, including acceptable use policies.

- h. **Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive Information may be either Public Information or Confidential Information. It is information that requires a higher-than-normal assurance of accuracy and completeness. Thus, the key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of agency financial transactions and regulatory actions.

3. Disclosure Restrictions

The contractor shall protect Agency on Aging PSCI from unauthorized disclosure. The contractor shall not disclose, except as otherwise specifically permitted by this agreement, any Agency on Aging PSCI to anyone other than Agency on Aging personnel or programs without prior written authorization from the Agency on Aging or the California Department of Aging.

- a. The contractor and the Agency on Aging mutually agree that the creation, receipt, maintenance, transmittal, and disclosure of data from the Agency on Aging containing Personal Health Information (PHI) shall be subject to the Health Insurance Portability and Accountability Act of 1996 and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (collectively and as used in this agreement, HIPPA). The contractor agrees to provide the same, or greater, level of protection to Agency on Aging data that would be required if the contractor were a Business Associate under HIPPA, regardless of whether the contractor is or is *not* a Business Associate.
- b. To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, more protective) privacy and/or security protections to Agency on Aging PSCI covered under this agreement beyond those provided through HIPPA, the contractor agrees:
 - i. To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the

extent such standards provide a greater degree of protection and security than HIPPA or are otherwise more favorable to the individuals whose information is concerned; and

- ii. To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate.
- iii. Examples of laws that provide additional and/or stricter privacy protections to certain types of Agency on Aging PSCI as defined above in Section H *definitions* of this agreement, include but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code Section 5328, and California Health and Safety Code section 11845.5.
- iv. If the Contractor is a Qualified Service Organization (QCS) as defined in 42 CFR section 2.11, the contractor agrees to be bound by and comply with subdivisions (2)(i) and (2) (ii) of that section.

4. Use Restrictions

The contractor shall not use any Agency on Aging or California Department of Aging PSCI for any purpose other than performing the contractor's obligations under this agreement.

5. Safeguards and Security

The contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Agency on Aging PSCI including electronic Agency on Aging PSCI that it creates, receives, maintains, uses, or transmits on behalf of Agency on Aging. The contractor shall develop and maintain a written information privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the contractor's operations and the nature and scope of its activities. The contractor's administrative, technical, and physical safeguards shall include, at a minimum:

a. Technical Security Controls:

The Contractor shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with

NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5, is available online at <https://csrc.nist.gov/pubs/sp/800/53/r5/upd1/final>; updates will be available online at <https://csrc.nist.gov/publications/sp800>.

b. Removeable Media Devices

All electronic files that contain Agency on Aging PSCI data must be encrypted when stored on any removeable media or portable device (i.e., USB thumb drives, floppies, CD/DVD, smart devices, tapes, etc.). PSCI must be encrypted, at a minimum, using FIPS 140-2 certified algorithm or successor standards, such as Advanced Encryption Standard (AES), with a 128bit key or higher.

c. Patch Management

The Contractor shall apply security patches and upgrades and keep virus software up to date on all systems which PHI and other confidential information may be used.

d. Confidentiality Statement:

All people that will be working with the California Department of Aging and Agency on Aging PSCI must sign a confidentiality statement (*Appendix C*), that includes at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by all people prior to accessing the Agency on Aging PSCI. The statement must be renewed annually. The contractor shall retain each person's written confidentiality statement for Agency on Aging inspection for a period of six (6) years following contract termination.

e. Transmission and Storage of PSCI:

All persons that will be working with Agency on Aging PSCI shall employ with FIPS 140-3 compliant encryption of PHI, at rest and in motion, unless it has been determined that such encryption is unreasonable and inappropriate based upon a risk assessment and equivalent alternative measures are in place and documented as such

f. Minimum Necessary:

Only the minimum necessary amount of Agency on Aging PSCI required to perform necessary business functions applicable to the

terms of this Agreement may be used, disclosed, copied, downloaded, or exported.

g. Antivirus Software:

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

h. Data Security:

Agency on Aging PSCI will be stored separately from other customers' data. Data will be stored and processed within the continental United States, and remote access to data from outside the continental United States will be prohibited. Data will be encrypted such that unauthorized parties are unable to read the data within the database/data repositories or any backups.

i. Mailing:

Mailings of Agency on Aging PSCI shall be sealed and secured from damage or inappropriate viewing of PSCI to the extent possible. Mailings which include 500 or more individually identifiable records of Agency on Aging PSCI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of Agency on Aging to use another method is obtained.

j. Security Officer:

The contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with Agency on Aging.

k. Mitigation of Harmful Effects:

The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the contractor of a use or disclosure of PSCI and other confidential information in violation of the requirements of this Agreement.

m. Access to, and Accounting For, Disclosure of PSCI:

The contractor shall document and make available to Agency on Aging or (at the direction of Agency on Aging) to an Individual such disclosures of Agency on Aging PSCI and information related to such disclosures necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by 45 CFR section 164.524 or any applicable state or federal law.

6. Employee Training

All persons who assist in the performance of functions or activities on behalf of the Agency on Aging, or access or disclose Agency on Aging PSCI, must complete information privacy and security training, located at https://aging.ca.gov/Information_security/ at least annually, at the contractor's expense. Each person who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.

7. Employee Discipline:

Appropriate sanctions must be applied against persons who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

8. Access to Practices, Books and Records

The Contractor shall make its internal practices, books, and records relating to the use and disclosure of PSCI on behalf of the Agency on Aging available to the Agency on Aging upon reasonable request.

9. Special Provision for SSA Data

In the Contractor receives data from or on behalf of Agency on Aging that was verified by or provided by the Social Security Administration (SSA Data) and is subject to an agreement between the Agency on Aging and SSA, the contractor shall provide, upon request by the Agency on Aging, a list of all employees and agents who have access to such data, including employees and agents of its agents, to Agency on Aging.

10. Breaches and Security Incidents

The contractor shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the

following steps:

a. Notice to the Agency on Aging

The Contractor shall notify the Agency on Aging immediately by email or telephone of the discovery of:

- i. Unsecured Agency on Aging PSCI if the Agency on Aging PSCI is reasonably believed to have been accessed or acquired by an unauthorized person.
- ii. Any suspected security incident which risks unauthorized access to Agency on Aging PSCI and/or other confidential information.
- iii. Any intrusion or unauthorized access, use, or disclosure of Agency on Aging PSCI in violation of this agreement: or
- iv. Potential loss of confidential data affecting this agreement
- v. Notice via email shall be made using the current CDA 1025 "Information Security Incident Report: form and shall include all information known at the time the incident is reported. The forms are available online at: https://aging.ca.gov/Information_security/
- vi. Upon discovery of a breach or suspected security incident, intrusion, or unauthorized access, use or disclosure of Agency on Aging PSCI, the Contractor shall:
 - a. Prompt corrective action to mitigate any risks or damages involved with the security incident or breach: and
 - b. Any action pertaining to such unauthorized disclosure is required by applicable Federal and State Laws and regulations.

b. Investigation of Security Incident Breach

The contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of Agency on Aging PSCI.

c. Complete Report

The contractor shall provide a complete report of the investigation to Agency on Aging within (10) working days of the discovery of the breach or unauthorized use or disclosure. The complete report must include an assessment of all known factors relevant to a

determination of whether a breach occurred under applicable federal and state laws. The report shall include a full, detailed corrective action plan including information on measures that were taken to halt and/or contain improper use or disclosure. If the Agency on Aging requests information in addition to this report, the contractor shall make reasonable efforts to provide the Agency on Aging with such information. Agency on Aging will review and approve or disapprove the contractor's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and the contractor's corrective action plan.

- i. If the Contractor does not submit a complete report within the ten (10) working day time frame, the contractor shall request approval from the Agency on Aging within the ten (10) working timeframe for the complete report.

d. Notification of Individuals

If the cause of a breach is attributable to the contractor or its agents, the contractor shall notify individuals accordingly and shall pay all costs of such notifications as well as any costs associated with the breach. The notifications shall comply with applicable federal and state law. The Agency on Aging shall approve the time, manner, and content of any such notifications and their review and approval must be obtained before the notifications are made.

e. Responsibility for Reporting Breaches to Entities other than the Agency on Aging

If the cause of a breach of Agency on Aging PSCI is attributable to the contractor or its subcontractors, the contractor is responsible for all required reporting of the breach as required by applicable federal and state law.

f. Submission of Sample Notification to Attorney General:

If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, regardless of whether the contractor is considered only a custodian and/or non-owner of the Agency on Aging PSCI, the contractor shall, at its sole expense and at the sole election of the Agency on Aging, either:

- i. Electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to

the Attorney General pursuant to the format, content, and timeliness provisions of Section 1798.29, subdivision (e). The contractor shall inform the Agency on Aging Privacy Officer: Hillaree Bennett, of the time, manner, and content of any such submissions prior to the transmission of such submissions to the Attorney General; or

- ii. Cooperate with and assist the Agency on Aging in its submission of a sample copy of the notification to the Attorney General.

11. Contact Information

To direct communications to the above referenced Agency on Aging staff, the contractor shall initiate contact as indicated herein. Agency on Aging reserves the right to make changes to the contact information below by giving written notice to the contractor.

Agency on Aging Privacy Officer:

Fresno-Madera Area Agency on Aging
2520 W. Shaw Ln. #101 A
Fresno, CA 93711

Attn: Program Director, Hillaree Bennett
Email: hbennett@fmaaa.org
Telephone: 559-319-0863

Agency on Aging Information Security Officer:

Fresno-Madera Area Agency on Aging
2520 W. Shaw Ln. #101 A
Fresno, CA 93711

Attn: Executive Director, Jamie Sharma
Email: jsharma@fmaaa.org
Telephone: 559-214-0299 ext. 500

13. Responsibility of Agency on Aging

The Agency on Aging agrees to not request the contractor use or disclose PSCI in any manner that would not be permissible under HIPPA and/or other applicable federal and/or state law.

14. Audits, Inspections, and Enforcement

a. Agency on Aging Right to Inspect

From time to time, Agency on Aging may inspect the facilities, systems, books, and records of the contractor to monitor compliance with the safeguards required in the Information Confidentiality and Security Requirements (ICSR) section. The contractor shall promptly remedy any violation of any provision of this ICSR section. The fact that Agency on Aging inspects, or fails to inspect, or has the right to inspect, the contractor's facilities, systems, and procedures does not relieve the contractor of its responsibility to comply with this ICSR

section.

- b. Notification to Agency on Aging in Event the Contractor is Subject to Other Audit:

If the contractor is the subject of an audit, compliance review, investigation, or any proceeding that is related to the performance of its obligations pursuant to this agreement or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, the contractor shall promptly notify the Agency on Aging unless it is legally prohibited from doing so.

15. Miscellaneous Provisions

- a. Disclaimer:

Agency on Aging makes no warranty or representation that compliance by the contractor with this agreement will satisfy the contractor's business needs or compliance obligations. The contractor is solely responsible for all decisions made by the contractor regarding the safeguarding of Agency on Aging PSCI and other confidential information

- b. Amendment:

- i. Any provision of this agreement which conflicts with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this agreement shall be effective on the effective date of the laws necessitating it and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

- ii. Failure by the contractor to take necessary actions required by amendments to this agreement shall constitute a material violation

- c. Assistance in Litigation or Administrative Proceedings

The contractor shall make itself, its employees, and agents available to the Agency on Aging at no cost to Agency on Aging to testify as witnesses in the event of litigation or administrative proceedings being commenced against Agency on Aging, its director, officers, or employees based upon claimed violation of laws relating to security and privacy, and which involves inactions or actions by the

contractor (except where the contractor or its subcontractor, workforce employee, or agent is a named adverse party).

d. No Third-Party Beneficiaries

Nothing in this agreement is intended to or shall confer upon any third person, any rights, or remedies whatsoever.

e. Interpretation

The terms and conditions in this agreement shall be interpreted as broadly as necessary to implement and comply with regulations and applicable laws. The parties agree that any ambiguity in the terms and conditions of this agreement shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.

f. No Waiver of Obligations

No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation or shall prohibit enforcement of any obligation on any other occasion.

g. Return or Destruction of Agency on Aging PSCI on Expiration or Termination

At expiration or termination of the contract, if feasible, the contractor shall return or destroy all Agency on Aging PSCI that the contractor still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Agency on Aging and the contractor shall determine the terms and conditions under which the contractor may retain the PSCI.

h. Data Sanitization

All Agency on Aging PSCI must be sanitized using NIST Special Publication 800-88 standard methods for data sanitization when the Agency on Aging PSCI is no longer needed.

i. Survival

If return or destruction of Agency on Aging PSCI is not feasible upon the completion or termination of the contract, the respective rights, and obligations of the contractor under this

Section shall survive the completion or termination of the contract between the contractor and the Agency on Aging. The contractor shall also limit further uses and disclosures of Agency on Aging PSCI to those purposes that make the return or destruction of the information infeasible.

I. Copyrights

1. If any material funded by the Agency on Aging is subject to copyright, the State reserves the right to copyright such material and the contractor agrees not to copyright such material, except as set forth in Article V section I.2.
2. The contractor may request permission to copyright material by writing to the Director of Agency on Aging. The Director shall grant permission or give reason for denying permission to the contractor in writing within sixty (60) days of receipt of the request
3. If the material is copyrighted with the consent of Agency on Aging, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given to the author.
4. The contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of work outlined within this agreement or the contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

J. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in Section J.2 of this Article, produced or resulting from activities supported by this Agreement without the express written consent of the Executive Director and/or Program Director of the Agency on Aging. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by the Agency on Aging. The Agency on Aging may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit the Contractor from sharing identifying client information authorized by the participant or summary program information that is not client-specific.

2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.
3. Subject only to the provisions of Article V, Section H, *Information Integrity and Security*, and Article V, Section I, *Copyrights*, of this Agreement, the State and the Agency on Aging may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.

K. Public Education and Information

(Please note: This differs from the IIBB service categories within the data dictionary that have the same names)

Public Education and Information (PE&I) falls into two categories:

1. **Educational** – materials that educate and inform an audience such as activity books, coloring books, brochures, and posters.
2. **Promotional** – material that promotes, supports, or enhances efforts and directly relates to the project objective such as key chains, onboard signs, mugs, pencils, magnets, and litter bags. The State of California and CDA does NOT allow CDA funds to be used for this purpose.

The Contractor shall assure that publications, press releases, paid and earned advertisements, outreach and media, media and kick-off events, educational materials and public notice conditions are met by ensuring that:

Materials published or transferred by the Contractor and financed with funds under this agreement shall include the following funding disclaimer:

"The materials or product were a result of a project funded by a contract with the California Department of Aging".

Contractors and subcontractors that produce educational materials that mention the CDA name (outside of the funding disclaimer) or use the

CDA logo must receive approval from the CDA Office of Communications prior to production. Subrecipients that produce PE&I materials must receive written approval from the CDA Office of Communications if the CDA is mentioned anywhere other than within the funding disclaimer, or if the CDA logo is used. Subrecipients should allow a minimum of ten (10) business days for approval; they should contact the CDA Office of Communications for assistance (Communications@aging.ca.gov).

Contractors should also advise vendors that all materials used in the production of public outreach materials paid for with grant funds are the property of the Contractor, AAA, and the CDA (i.e., data, plates, digital files, camera-ready artwork, designs, concepts, photographs, video and audio). The Agency on Aging reserves the right to use materials developed by the Contractor, and/or subcontractor.

Questions regarding the inclusion, size or placement of the CDA logo should be directed to the CDA Office of Communications.

All documents produced must comply with Federal Acquisition Regulation, Section 508 which governs document accessibility.

L. S.W.A.G Ban

The contractor and its subcontractor shall comply with the Governor's Executive Order B-06-11, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get."

M. Advertising and Public Relations

The contractor shall assure that publications, press releases, paid and earned advertisements, outreach and media, media and kick-off events, educational materials and public notice conditions are met by ensuring that:

Materials published or transferred by the contractor and financed with funds under this agreement shall include the following funding disclaimer:

"The materials or product were a result of a project funded by a contract with the California Department of Aging".

Any materials that utilize the CDA logo or name (outside of the funding disclaimer), require approval by the CDA Office of Communications prior to publication and dissemination. The use of CDA logo and CDA mention outside of the funding disclaimer is at the discretion of the contractor. If the CDA

logo or CDA mention is used, the contractor shall email the draft language and materials a minimum of ten (10) business days in advance of publication and dissemination to communications@aging.ca.gov and the appropriate CDA Program staff point of contact.

Language and materials submitted will be assessed in batches on the first and fifteenth of each month, with a minimum of ten (10) business days approval period.

N. Approval Requirements for Advertising and Public Relations

This section further clarifies the approval requirements as outlined in ARTICLE V.K and V.M.

Approval Required:

Materials that use the CDA logo, including:

- Paid advertising
- Earned advertising
- Outreach materials
- Educational materials
- Media events
- Public notices

No Approval Required:

- Materials that only mention CDA in the funding disclaimer "The materials were funding by a contract with the California Department of Aging." Without using the CDA logo.
- Materials that do not mention the CDA name or use the CDA logo.

Social Media Posts

Approval Required:

- Social media posts that mention the CDA name or use the CDA logo.

No Approval Required:

- Social media posts that do not mention the CDA name or use the CDA logo, even if CDA funds are involved.
- Tagging @calaging on X, Facebook, or LinkedIn is optional but encouraged to keep CDA informed about your organization's activities.

Specific Scenarios and Examples

- Paid advertisement in local newspaper - No approval is needed if the promotion includes the funding disclaimer without the CDA logo or mentioning CDA.

- Public Notices - No approval is needed for public notices about Area Plan updates or RFPs that use template language but do not use CDA logo.
- Examples of materials requiring approval: Press releases, brochures, websites, flyers, invitations, presentations, and reports that mention the CDA name beyond the funding disclaimer language or use the CDA logo with or without other logos.

Submission Process

Submit language and materials needing approval to communications@aging.ca.gov.

- Review timeline: Typically, within ten (10) business days
- Review dates: First and fifteenth of each month
- Urgent requests: Notify Office of Communications if expedited approval is needed.

Questions

- For questions about approval requirements email communications@aging.ca.gov.

O. Copyrights/Trademarks

The CDA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal or state government purposes the following:

1. The copyright/trademark in any work developed under a grant, sub grant or contract under a grant or sub grant.
2. Any right of copyright/trademark to which a contractor or subcontractor purchases ownership with grant funds.

P. Lobbying Certification

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

1. No federally 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 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 federally 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 Agreement, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, *Disclosure Form to Report Lobbying*, in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subcontractors 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. 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.

Q. Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the Agency on Aging determines that a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by the Agency on Aging, and such conflict may constitute grounds for termination of the Agreement.
2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family, business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

R. Covenant Against Contingent Fees

1. The Contractor warrants that no person or selling agency has been employed or retained to solicit this Agreement. There has been no agreement to make commission payments in order to obtain this Agreement.
2. For breach or violation of this warranty, the Agency on Aging shall have the right to terminate this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

S. Facility Construction or Repair

1. This section applies only to Title III funds and not to other funds allocated to other Titles under the Older Americans Act.
 - a. When applicable for purposes of construction or repair of facilities, the Contractor shall comply with the provisions contained in the following and shall include such provisions in any applicable agreements with subcontractors:
 - i. Copeland "Anti-Kickback" Act [18 USC §874, 40 USC §3145] [29 CFR §3];
 - ii. Davis-Bacon Act [40 USC §3141 et seq.] [29 CFR §5];
 - iii. Contract Work Hours and Safety Standards Act [40 USC §3701 et seq.] [29 CFR §5, 6, 7, 8]; and
 - iv. Executive Order 11246 of September 14, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor Regulations [41 CFR §60].
 - b. Payments are not permitted for construction, renovation, alteration, improvement, or repair of privately-owned property which would enhance the owner's value of such property except where permitted by law and by the Agency on Aging.
 - c. When funding is provided for construction and non-construction activities, the Contractor must obtain prior written approval from the Agency on Aging before making any fund or budget transfers between construction and non-construction.

T. Grievance Process

1. The Contractor must establish a written grievance process for reviewing and attempting to resolve complaints of older individuals receiving services funded by this Agreement. At a minimum, the process shall

include all of 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 Fresno-Madera Area Agency on Aging if dissatisfied with the results of the Contractor's review.
 - c. Confidentiality provisions to protect the complainant's rights to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.
2. The Contractor shall notify older individuals of the grievance process available to them by:
 - a. Posting notification of the process in visible and accessible areas, such as the bulletin boards in multipurpose senior centers. For areas in which a substantial number of older individuals are non-English speaking, the notification shall also be posted in the primary language of a significant number of older individuals.
 - b. Advising homebound older individuals of the process either orally or in writing upon the Contractor's contact with the individuals.
 3. Complaints may involve, but not be limited to, any or all of the following:
 - a. Amount or duration of a service.
 - b. Denial or discontinuance of a service.
 - c. Dissatisfaction with the service being provided or with the service provider. If the complaint involves an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, the complainant shall be referred to the proper entity.
 - d. Failure of the service provider to comply with any of the requirements set forth in CDA regulations or in this Agreement.
 4. Nothing in this Article shall be construed as prohibiting older individuals from seeking other available remedies, such as presenting their complaints at an open meeting of the Contractor's governing board.

U. Disaster Plan

1. The Contractor shall prepare and maintain a disaster 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, and make such plan available to the Agency on Aging upon request.

2. The Contractor shall provide annual disaster response training and a current list of community resources for all employees and volunteers, and maintain documentation of such training.
3. The Contractor shall designate a primary and a secondary emergency contact. Following an emergency or disaster, the Contractor's designated contact shall update the Agency on Aging with the Contractor's operational status.
4. The Contractor shall complete Exhibit F, *Service Provider Emergency Resource Information*, included with this agreement, and advise the Agency on Aging whenever a change to this information occurs.

V. Community Focal Points

The Contractor acknowledges that the Agency on Aging has designated locations as Community Focal Points, as required by Title 22 CCR Article 3 §7302(a)(14), 45 CFR §1321.53(c), and OAA 2006 §306(a), which are attached as Appendix J, *Community Focal Points List*.

ARTICLE VI. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received to perform services outlined within agreement.
2. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with the California Department of Human Resources' (CalHR) rules and regulations.
3. In State:

Mileage/Per Diem (meals and incidentals)/Lodging

<https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

Out of State: <http://hrmanual.calhr.ca.gov/Home/ManualItem/1/2201>

This is not to be construed as limiting the contractor from paying any differences in costs, from funds other than those provided by the Agency on Aging, between the CalHR 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 State. [SCM 3.17.2.A(4)]

The contractor agrees to include these requirements in all subcontracts it enters into with subcontractors to provide services pursuant to this agreement.

4. Agency on Aging reserves the right to refuse payment to the contractor or disallow costs for any expenditure, as determined by the Agency on Aging to be: out of compliance with this agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required, but was either not requested or not granted.

B. Accountability for Funds

1. The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [2 CFR §200] [45 CFR §75]
2. The Contractor shall ensure that funding for services as outlined herein are managed and prorated monthly to ensure that adequate Older Americans Act funding is available to provide services through the ending date of this Agreement.
3. Funds made available under this Agreement shall supplement, and not supplant, any federal, State, or local funds expended by a State or unit of general purpose local government to provide Title III (excluding Title III E) and Title VII services.

C. Financial Management Systems

The Contractor shall meet the following standards for its financial management systems, as stipulated in 2 CFR §200.302 and 45 CFR §75.302:

1. Financial Reporting.
2. Accounting Records.
3. Complete Disclosure.
4. Source Documentation.

5. Internal Control.
6. Budgetary Control.
7. Cash Management (written procedures).
8. Allowable Costs (written procedures).

D. Unexpended Funds

1. No later than December 23 of the Agreement year, the Contractor shall report to the Agency on Aging if any Older Americans Act funds will remain unexpended at the ending date of this Agreement.
2. The Agency on Aging shall request and receive from the Contractor release of Older Americans Act funds for an amount mutually agreed upon by both parties, not to exceed the estimated amount of unexpended funds. The Agency on Aging shall be reasonable in its request for funds and the Contractor shall not unreasonably withhold permission for release of funds.
3. The Agency on Aging retains all rights to reallocate released funds into other programs, projects, or activities.
4. Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to the Agency on Aging immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Agreement, or the dissolution of the entity.

E. Funding Contingencies

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the State, and subsequently to the Agency on Aging, by the United States Government or the Budget Acts of the appropriate fiscal years for purposes of the contracted program(s). In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or the Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.

F. Limitation of State Liability

Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this Agreement and approval of an itemized budget. No legal liability on the part of the State or the Agency on Aging for any payment may arise under this Contract until funds are made available; the itemized budget is approved by the State; and the Contractor has received an executed Agreement.

G. Funding Reduction

1. If funding for any State or Agency on Aging fiscal year is reduced or deleted by the Department of Finance, Legislature, or Congress for the purpose of the services outlined within this agreement, the Agency on Aging shall have the option to either:
 - a. Terminate the Agreement pursuant to Section A.1 of Article XVII, *Termination*, of this Agreement; or
 - b. Offer a revision to the Budget to reflect the reduced funding authorized by the authority of this agreement.
2. In the event the Agency on Aging elects to offer a revised budget display(s), it shall be mutually understood by both parties that:
 - a. The Agency on Aging reserves the right to determine which programs, if any, shall be reduced.
 - b. Some programs may be reduced by a greater amount than others, and
 - c. The Agency on Aging shall determine at its sole discretion the amount that any or all of the programs shall be reduced for the applicable fiscal years.

H. Fiscal Provisions

1. The agreement must be approved prior to release and disbursement of any program funding included within these terms via the budget displays.
2. Upon release of an original or revised budget display, a separate budget for all programs affected shall be submitted electronically to the Agency on Aging's fiscal department, within 30 days of release.

3. Budgets must be approved by the Agency on Aging's fiscal department prior to any disbursement of funding.
4. Agency on Aging cannot disburse funds until the contract agreement is fully executed.

ARTICLE VII. BUDGET AND BUDGET REVISION

- A. The Contractor shall be reimbursed for expenses only as itemized in the approved budget with the exception of line item budget transfers as noted in Section E of this Article and shall not be entitled to reimbursement for these expenses until this Agreement is approved and executed by the Agency on Aging. The approved Contractor's budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The final date to submit a budget revision to the Agency on Aging for this Agreement is March 15, 2026.
- C. Indirect Costs
 1. The maximum reimbursement amount allowable for indirect costs is fifteen percent (15%) of the Contractor's Modified Total Direct Costs (MTDC), excluding in-kind contributions and nonexpendable equipment. Indirect costs shall not exceed fifteen percent (15%) of the Contractor's MTDC per funding category.
 2. The contractor requesting reimbursement for indirect costs exceeding the maximum fifteen percent (15%) shall retain on file an approved negotiated indirect cost rate or cost allocation plan.
 3. Indirect costs exceeding the fifteen percent (15%) maximum may be budgeted as in-kind for purposes of meeting matching requirements in Title III and Title VII programs only. Contractors must receive prior approval from the federal awarding agency, through the Agency on Aging with approval from the California Department of Aging, 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)]

D. Program Specific Funds

1. Program Income

- a. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.
- b. 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 Section D.1.d of this Article).
- c. For Title III B, III C, III D, III E, VII Ombudsman, and VII Elder Abuse Prevention, Ombudsman Citation Penalties Account, Licensing and Certification Program Funds, Skilled Nursing Facility Quality and Accountability Funds, CARES Act, Elder Justice Act, and Older Californians Act. Program Income must be spent before contract funds (except as noted in Section D.1.d of this Article) and may reduce the total amount of contract funds payable to the Contractor.
- d. Program Income may not be used to meet the matching requirements of this Agreement.
- e. Program Income must be used to expand baseline services.
- f. If as a result of advanced funds, the project earns interest on funds awarded by the Agency on Aging, that interest shall be identified as income to the program and used for program expenditures, with full documentation on file for all programs.

2. One-Time-Only (OTO) Funds

- a. OTO Funds, if any, are non-transferable between funding sources. This means that OTO funds can only be used in the program in which they were accrued.
- b. Titles III and VII federal program OTO funds shall only be used for the following purposes:
 - i. Home and community-based projects that are approved in advance by the California Department of Aging, and are designed to address the unmet needs of the eligible service population identified in the Area Plan.
 - ii. Innovative pilot projects that are approved in advance by the California Department of Aging, 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).

- iii. OTO funds can be used to maintain or increase baseline services; however, the Contractor 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 approval from the California Department of Aging.

- c. NSIP OTO funds shall only be used to purchase food used in the Elderly Nutrition Program.

E. Line Item Budget Transfers

The Contractor may transfer Agreement funds between line items under the following terms and conditions:

1. The Contractor shall obtain prior approval from the Agency on Aging for any line item transfer of funds that exceeds ten percent (10%) of the total budget for each funding source, and submit a revised budget to the Agency on Aging.
2. The Contractor shall maintain a written record of all budget changes and clearly document line item budget changes. The record shall include the date, amount, and purpose of the transfer. This record shall be available to the Agency on Aging upon request and shall be maintained in the same manner as all other financial records.

F. Matching Contributions

1. "Matching Contributions" is defined in Article I, Section H.
 - a. Cash and/or in-kind contributions may count as match, if such contributions are used to meet program requirements.
 - b. Any matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or subcontractor.
 - c. Matching contributions must be used for allowable costs in accordance with the Office of Management and Budget cost principles.
2. Minimum matching contributions for Older Americans Act funded grants awarded by the Fresno-Madera Area Agency on Aging are determined as follows:

- a. Title III B Supportive Services (not including Ombudsman), Title III C1 Congregate Nutrition, and Title III C2 Home-Delivered Nutrition is forty percent (40%).
 - b. Title III E Family Caregiver Support Program is thirty percent (30%).
 - c. Long-Term Care Ombudsman Program; Title VII Elder Abuse Prevention; Title III D Health Promotion-Evidence Based: No Match Required
- 3. Minimum matching requirements are calculated on net costs, which are total costs less program income, non-matching contributions, and State funds.
 - 4. Matching contributions generated in excess of the minimum required are considered overmatch.

ARTICLE VIII. PAYMENT

- A. The Contractor shall prepare and submit a monthly expenditure report, as indicated in Appendix E, *Required Reports and Due Dates*, by the 15th of each month to the Agency on Aging, unless otherwise specified by the Agency on Aging. The report shall include all costs and funding sources for the month prior.
- B. The Agency on Aging shall review the Contractor's report to ensure compliance with the approved Agreement budget.
- C. Depending upon funding availability, the Agency on Aging shall make monthly reimbursement payments to the Contractor as specified in Appendix E, *Required Reports and Due Dates*, of this Agreement. The Agency on Aging shall pay the Contractor a total not to exceed the amount shown on page one (1) of this Agreement.
- D. The Agency on Aging may withhold payment if the Agency on Aging determines that the Agreement with the Contractor is at-risk, as described in Appendix F, *Sanction Policy*.
- E. The Agency on Aging shall be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. Payments made after a decision to withhold funds or terminate the Agreement will be governed by Article XVII, *Termination*.
- F. The Agency on Aging may require financial reports more frequently than indicated in Section A of this Article or more detail (or both), upon written notice to the Contractor, until such time as the Agency on Aging determines that the financial management standards are met.

G. Closeout

1. Contractor is required to submit the *Financial Closeout Report* for this Agreement and *Fixed Assets Acquired through Grants with the Fresno-Madera Area Agency on Aging* (FMAAA 32) to the Agency on Aging by April 15, 2026. All contractors are required to submit Program Property Inventory Certification annually, at the time of closeouts, to CDAEquipment@aging.ca.gov or as instructed by FMAAA. If Agreement is terminated or cancelled prior to June 30, 2026, the *Financial Closeout Report* and FMAAA 32 shall be submitted to the Agency on Aging within fifteen (15) days of termination or cancellation of the Agreement.

ARTICLE IX. SUBCONTRACTS

- A. The Contractor must obtain approval from the Agency on Aging prior to awarding any subcontracts for services contracted in this Agreement.
- B. The Contractor shall not obligate funds for this Agreement in any subcontracts for service beyond the ending date of this Agreement.
- C. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State of California or the Agency on Aging.
- D. The Contractor shall maintain on file copies of subcontracts, memorandums, and/or Letters of Understanding which shall be made available for review at the request of the Agency on Aging.
- E. The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.
- F. The Contractor shall require its subcontractors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, Workers Compensation liabilities, and if appropriate, automobile liability including non-owned automobile and professional liability, and further, the Contractor shall require all of its subcontractors to hold the Contractor harmless. The subcontractor's Certificate of Insurance for general and automobile liability shall also name the Contractor, not the Agency on Aging, as the certificate holder and additional insured. The Contractor shall maintain Certificates of Insurance for all of its subcontractors.
- G. The Contractor shall require language in all subcontracts to require all subcontractors to indemnify, defend, and save harmless the Agency on Aging, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying

work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor(s) in the performance of this Agreement.

- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Agency on Aging. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Agency on Aging.
- I. The Contractor shall require all subcontractors to maintain adequate staff to meet the subcontractor's agreement with the Contractor. This staff shall be available to the California Department of Aging and the Agency on Aging for training and meetings, which the California Department of Aging or the Agency on Aging may find necessary from time to time.
- J. If a private non-profit corporation, the subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
- K. In the case of small contracts, not over \$100,000 in the aggregate, the contractor may need only obtain price or rate quotations from a number of qualified sources and informally select the source with which to contract or obtain the purchase. [22 CCR 7352(g).] Although a competitive process is not required, a Pre-Award Review is required for small contracts with for-profit entities, as follows:
 - 1. Pre-Award Review: Prior to informally selecting the for-profit entity with which to contract or obtain the purchase, the AAA shall submit the following to CDA for review and approval for small contracts (under \$100,000 in the aggregate):
 - a. Documentation that the aggregate value of the contract with any entity is less than \$100,000.
 - b. A completed CDA 2000 (Conflict of Interest Disclosure Form) that discloses whether a potential or actual conflict of interest exists.
 - c. Copies of the price or rate quotations received from qualified sources on individual bidder letterhead.
 - 2. The Agency on Aging will provide a determination letter within fifteen (15) days of receipt of all required documentation confirming that the contractor has satisfied the requirements of a noncompetitive award to a

for-profit entity or will provide detail as to the requirement(s) that have not been met.

3. The AAA shall maintain all of the following for a period of three years after final payments are made and all other pending matters are closed:
 - 1) Copies of all approved bids or proposals and any amendments or changes thereto.
 - 2) A statement of the criteria used to approve awards.
 - 3) Copies of the award documents and contracts entered into pursuant to Section 7364.
 - 4) Other information as requested by 45 CFR 92.36(b), [CCR Title II, Section 7352(h) as well as CDA's determination letter.
4. Because "requirements" under a particular contract likely have distinct and itemized values, considering these distinct values together likely provides the most reasonable way of viewing the meaning of "aggregate" for purposes of determining whether the small contract procurement procedures may be used for a particular contract under 22 CCR 7352 (g). As such, aggregate likely means the combined total estimated value of each requirement for a particular contract. This would require the contractor to assess its known contract requirements in the planning phase and estimate the value of each requirement. If those requirements in the aggregate are not more than \$100,000, the small contract procedures may be used.

- L. Contracts over \$100,000 in the aggregate for any entity must follow an open and competitive process [22 CCR 7352].

The Contractor shall, prior to the awarding of a subcontract to any for-profit entity, submit the following to Agency on Aging for review and approval:

1. The Request for Proposal (RFP) or Invitation for Bid. [22 CCR 7362(a)(1)].
2. All bid proposals received. [22 CCR 7362(a)(2)].
3. The proposal or bid evaluation documentation, along with the AAA's rationale for awarding the contract to a for-profit entity. [22 CCR 7362(a)(3)].
4. Description and documentation of dissemination of information concerning the RFP to elicit adequate competition. [22 CCR7356].

- M. The Agency on Aging will provide a determination letter within fifteen (15) days of receipt of all required documentation confirming that the Contractor has satisfied the requirements of a competitive award to a for-profit entity or will provide details as to the requirement(s) that have not been met. The Contractor must maintain all documentation on file that supports a competitive award to a for-profit entity, as well as the Agency on Aging's determination letter. Where a program may be contracted to a for-profit organization, the Contractor should include in its contract with the for-profit entity, a requirement for performance of a program specific audit of the contracted program by an independent audit firm.
- N. The contractor shall refer to 2 CFR 200.331, Subpart D-Subrecipient and Contractor Determinations and 45 CFR 75.351, Subpart D-Subrecipient and Contractors Determinations in making a determination if a subcontractor relationship exists. If such a relationship exists, then the contractor shall follow the procurement requirements in the applicable Office of Management and Budgets (OMB) Circular.
- O. The Contractor shall utilize procurement procedures as follows:
 - 1. The Contractor shall obtain goods and services through open and competitive awards. Each contractor shall have written policies and procedures, including application forms, for conducting an open and competitive process, and any protests resulting from the process.
 - 2. For goods and services purchased with Title III or Title VII funds, the procurement procedures must include, at a minimum, the requirements set forth in 22 CCR 7352. The only exceptions are contained in 22 CCR 7360(a) and 22 CCR 7360(d). The Contractor issuing a noncompetitive award must comply with 22 CCR 73600 (b)-(d).

ARTICLE X. RECORDS AND REPORTS

A. Records

- 1. The Contractor shall maintain complete records which shall include, but not be limited to, accounting records, contracts, agreements, a reconciliation of the *Financial Closeout Report* to the audited financial statements, and a summary worksheet identifying the results of performing audit resolution of its subcontractors in accordance with Article XIV, *Audit Requirements*, of this Agreement. This includes the following: Letters of agreement, insurance documentation, Memorandums and/or Letters of Understanding, patient or client records, and electronic files of its activities and expenditures hereunder in a form satisfactory to the Agency on Aging. All records pertaining this Agreement must be

made available for inspection and audit by the Agency on Aging or its duly authorized agents, at any time during normal business hours.

2. All such records, including confidential records, must be maintained and made available by the Contractor as follows:
 - a. Until an audit of the July 1, 2025 through June 30, 2026 period of expenditures has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Agency on Aging or the California Department of Aging's Audit and Risk Management Branch;
 - b. For such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections 3 and 4 of this Article; and
 - c. For such longer period as the Agency on Aging or the State deems necessary.
3. 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 in Sections A.2.a through A.2.c of this Article. The Contractor shall ensure that any resource directories and all client records remain the property of the Agency on Aging upon termination of this Agreement, and are returned to the Agency on Aging or transferred to another contractor as instructed by the Agency on Aging.
4. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, such records shall be maintained and kept available until every action has been cleared to the satisfaction of the Agency on Aging and the State and so stated in writing to the Contractor.
5. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the Agency on Aging under this Agreement. Source documentation includes, but is not limited to: vendor invoices, bank statements, cancelled checks, bank/credit card statements, contracts and agreements, employee time sheets, purchase orders, indirect cost allocation plans.
6. All records containing confidential information shall be handled in a confidential manner in accordance with the requirements for information integrity and security, and in accordance with guidelines set forth in this section. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

B. Reports

1. The Contractor shall prepare and submit fiscal and performance reports as designated in Appendix E, *Required Reports and Due Dates*. Reports shall be submitted on forms in a format approved by the Agency on Aging.
2. The Contractor shall assure that all financial and program data submitted to the Agency on Aging are timely, complete, accurate, and verifiable.
3. If supporting documentation is required as stated in Article XIV, *Audit Requirements*, all such documentation must accompany the monthly expenditure report.
4. All Program Income received by the Contractor shall be included on the monthly expenditure report, and expenditures supported by Program Income shall be stated in the appropriate column. Program Income shall be tracked on a "first in-first out" method. Unspent Program Income shall not exceed the equivalent of thirty (30) days average Program Income.
5. The Contractor shall cross-train staff on program data collection and reporting requirements in the event of planned or unplanned prolonged absences to ensure timely and accurate submission of data.
6. Upon request, the Contractor will provide information and supporting documentation on any activities funded in-part or in-whole with the supplement funding.

ARTICLE XI. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets used in operation of this Agreement.
 1. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, intangibles, etc.
 2. Property does not include consumable office supplies such as paper, pencils, toner cartridges, file folders, etc.
- B. Property acquired under this Agreement, which meets any of the following criteria, is subject to the reporting requirements:
 1. Has a normal useful life of at least one (1) year and has a unit acquisition cost of at least \$500 (a desktop or laptop setup is considered a unit, if purchased as a unit).

2. All computing devices, regardless of cost (including, but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers, tablets, smartphones, and cellphones).
 3. All Portable electronic storage media, regardless of cost (including but not limited to, thumb/flash drives and portable hard drives).
- C. Intangibles are property which lack physical substance but give valuable rights to the owner. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.). Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.
- D. Equipment/Property with per unit cost over \$500 or any computing devices, regardless of cost, requires justification from the Contractor and approval from the California Department of Aging and the Agency on Aging. The Contractor must submit a detailed listing of planned Equipment/Property purchases in its budget to the Agency on Aging (*Schedule of Program/Site Supplies and Equipment Purchases*, page 4 of Exhibit B, *Budget*). Please note an approved budget is not approval for equipment purchases. The Agency on Aging will notify the Contractor when the California Department of Aging has rendered an approval decision.
- E. The Contractor shall report property acquired with funds provided under this Agreement to the Agency on Aging:
1. Title III B, Title III C, and Title VII (b): On the Monthly Report of Expenditures and Donations Revenue for the month in which the property was acquired.
 2. Title III E: On the Title III E Monthly Report of Expenditures (for the Family Caregiver Support Program) for the month in which the property was acquired.
 3. Long-Term Care Ombudsman Program: On the Budget Summary/Monthly Expenditure Report and Request for Funds, Special Deposit Fund (SDF) & Skilled Nursing Facility Quality & Accountability Fund (SNFQAF) (CDA-OMB-300) for the month in which the property was acquired.
- F. The Contractor shall attach receipts for the property and a list of the following information for each item of property acquired: Date acquired; complete

description; model number; serial number (if applicable); cost or other basis of valuation; fund source; and specific location of the property.

- G. The Contractor shall maintain a cumulative inventory, including the Asset Tag number and all information required by Section F of this Article, of all property furnished or purchased by the Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose.
- H. The Contractor shall affix the Asset Tag provided by the Agency on Aging to tangible property upon receipt of the asset tag from the agency, which identifies the property as State of California property. The Contractor shall enter the Asset Tag number on the cumulative inventory records maintained by the Contractor for this Agreement.
- I. The Contractor shall conduct an annual physical inventory of all property furnished or purchased by the Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose, and submit *Fixed Assets Acquired through Grants with the Fresno-Madera Area Agency on Aging* (FMAAA 32) with the annual Financial Closeout Report to the Agency on Aging. Corresponding reconciliation must be kept on file and available for review by the Agency on Aging.
- J. Prior to disposal of any property purchased by the Contractor or subcontractor with funds from this Agreement or any predecessor Agreement, the Contractor must obtain approval from the California Department of Aging, through the Agency on Aging, for all reportable property as defined in Section B of this Article. The Contractor shall submit a *Request to Dispose of Property* (FMAAA 248) to the Agency on Aging to request disposal of property.

Disposition, which includes sale, trade-in, discarding, or transfer to another agency, may not occur until approval is provided by the California Department of Aging and the Agency on Aging notifies the Contractor of the State's instructions for disposition of property (CDA 248) to property@aging.ca.gov

Once property has been disposed as per the State's authorization and instructions, the item(s) shall be removed from the Contractor's inventory report. Property is not to be disposed of until both the CDA 248 and STD 152 have been approved by CDA. Contractor will be liable for repayment of purchase price of equipment if Contractor disposes of equipment without prior approval from Agency on Aging and CDA.

- K. The Contractor must sanitize property (remove all confidential, sensitive, or personal information) 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, personal computers, personal digital

assistants, cell or smart phones, multi-function printers, and laptops. The Contractor must attach documentation of sanitation of such devices to the *Request to Dispose of Property* (FMAAA 248) requesting property disposal.

- L. Any loss, damage, or theft of equipment shall be investigated and fully documented, and the Contractor shall promptly notify the Agency on Aging and shall provide copies of investigative documentation and police reports as requested by the California Department of Aging. In addition, the Contractor shall complete a *Request to Dispose of Property* (FMAAA 248) and provide it to the Agency on Aging.
- M. The State reserves title to all property purchased or financed with funds provided through the Agency on Aging that is not fully consumed in the performance of this Agreement, including property acquired with grant funds, matching funds, monetary donations, and in-kind donations as entered on the budget, budget revisions, and/or closeout report for this Agreement, unless otherwise required by federal law or regulations.
- N. The 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 personal property during the period of the project and until the Contractor has complied with all written instructions from the Agency on Aging regarding the final disposition of the property.
- O. In the event of the Contractor's dissolution, or upon termination of this Agreement, the Contractor shall provide a final property inventory to the Agency on Aging. The Agency on Aging reserves the right to require the Contractor to transfer such property to another entity, or to the Agency on Aging.

To exercise the above right, no later than one hundred twenty (120) days after termination of this Agreement or notification of the Contractor's dissolution, the AAA will issue specific written disposition instructions to the Contractor.
- P.
- Q. The Contractor shall use the property for the purpose for which it was intended under this Agreement.
- R. The Contractor 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.
- S. If purchase of property is a reimbursable item, the property to be purchased will be specified on an approved Budget.

- T. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

ARTICLE XII. ACCESS

- A. The Contractor shall provide access to the Agency on Aging, federal or State contracting agency, Bureau of State Audits, the Comptroller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, and records of the Contractor or subcontractor which are directly pertinent to this specific Agreement for the purpose of an audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

ARTICLE XIII. MONITORING AND EVALUATION

- A. Welfare and Institution Code (WIC) (Division 8.5 Mello-Granlund Older Californians Act [9000 – 9757.5] Chapter 2. California Department of Aging [9100-9118.5] Article 1. General provisions [9100-9114] Section 9102 (a)) states that the State Unit of Aging shall administer all programs under the Older Americans Act of 1965, as amended, and this division, including providing ongoing oversight, monitoring, and service quality evaluation to ensure that service providers are meeting standards of service performance established by the department.
The Agency on Aging conduct onsite/remote monitoring visits to ensure that the contractor(s) are in compliance with all federal and State laws, regulations, policies, contracts or grant agreements (Administrative); Performance goals are achieved (Program); and Federal awards are used for authorized purposes (Fiscal). Comprehensive onsite/remote assessments are conducted at a minimum once every two years as resources permit.
- B. Authorized State representatives and the Agency on Aging shall have the right to monitor and evaluate the Contractor's administrative, fiscal and program performance pursuant to this Agreement. Said monitoring and evaluation may include, but is not limited to, administrative processes, fiscal, data and procurement components. This will include policies, procedures, procurement, audits, inspections of project premises, interviews of project staff and participants, and when applicable, inspection of food preparation sites.
- C. The Contractor shall cooperate with the State and the Agency on Aging in the monitoring and evaluation processes, which include making any administrative, program and fiscal staff available during any scheduled process.
- D. The Contractor shall monitor contracts and subcontracts to ensure compliance with laws, regulations, and the provisions of contracts that may have a direct and/or material effect on each of its Agency on Aging funded programs.

- E. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts, monitoring reports, and all other pertinent records until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by CDA or the Agency on Aging.
- F. Review, approve, and monitor its subcontractor budgets and expenditures and any subsequent amendments and revision to budgets, To the extent feasible, ensure that all budgeted funds are fully expended by the end of each fiscal year.

ARTICLE XIV. AUDIT REQUIREMENTS

A. General

- 1. Any duly authorized representative of the federal or State government, which includes but is not limited to the State Auditor, CDA Staff, the Agency on Aging, and any entity selected by the State to perform inspections, shall have the right to monitor and audit Contractor and all subcontractors providing services under this Agreement through on-site inspections, audits, and other applicable means the State determines necessary. In the event that CDA is informed of an audit by an outside federal or State government entity affecting the Contractor, CDA and/or the Agency on Aging will provide timely notice to the Contractor.
- 2. Contractor shall make available all reasonable information necessary to substantiate that expenditures under this agreement are allowable and allocable, including, but not limited to accounting records, vendor invoices, bank statements, cancelled checks, bank/credit card statements, contracts and agreements, employee time sheets, purchase orders, indirect cost allocation plans. Contractor shall agree to make such information available to the federal government, the State, the Agency on Aging, or any of their duly authorized representatives, including representatives of the entity selected by State to perform inspections, for examination, copying, or mechanical reproduction, on or off the premises of the appropriate entity upon a reasonable request.
- 3. All agreements entered into by Contractor and subcontractors with audit firms for purposes of conducting independent audits under this Agreement shall contain a clause permitting any duly authorized representative of the federal or State government and the Agency on Aging access to the supporting documentation of said audit firm(s).
- 4. The Contractor shall cooperate with and participate in any further audits which may be required by the State, including CDA and Agency on Aging fiscal and compliance audits.

B. CDA Fiscal and Compliance Audits

1. The CDA Audits and Risk Management Branch shall perform fiscal and compliance audits of Contractors in accordance with Generally Accepted Government Auditing Standards (GAGAS) to ensure compliance with applicable laws, regulations, grants, and contract requirements.
2. The CDA fiscal and compliance audits may include, but not be limited to, a review of:
 - a. Financial closeouts (2 CFR §200.1 and 45 CFR §75.2).
 - b. Internal controls (2 CFR §200.303 and 45 CFR §75.303).
 - c. Allocation of expenditures (2 CFR §200.1 and 45 CFR §75.2).
 - d. Allowability of expenditures (2 CFR §200.403 and 45 CFR §75.403).
 - e. Equipment expenditures and approvals, if required (2 CFR §200.439 and 45 CFR §75.439).

C. Contractor Single Audit Reporting Requirements

1. Contractors that expend \$750,000 or more in federal funds shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502; the Single Audit Act Amendments of 1996, Public Law 104-156; 2 CFR §200.501 to 200.521; and 45 CFR §75.501 to 75.521. A copy shall be submitted to the Agency on Aging's physical address:

Fresno-Madera Area Agency on Aging
2520 West Shaw Lane, Suite 101A
Fresno, CA 93711

2. The copy shall be submitted within thirty (30) days after receipt of the auditor's report or nine (9) months after the end of the audit period, whichever occurs first, or unless a longer period is agreed to in advance by the cognizant or oversight agency.
3. For purposes of reporting, the Contractor shall ensure that State-funded expenditures are displayed discretely along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under the appropriate Catalog of Federal Domestic Assistance (CFDA) number as referenced in Section L of this Article.

4. For State contracts that do not have CFDA numbers, the Contractor shall ensure that the State-funded expenditures are discretely identified in the "Schedule of Expenditures of Federal Awards" by the appropriate program name, identifying Agency on Aging grant/contract number, and as passed-through the California Department of Aging.
- D. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements, single audit, and general ledgers. The reconciliation shall be maintained and made available for Agency on Aging and CDA review.
 - E. Contractor Resolution of Contractor's Subrecipients

The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds approved under this Agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements. The Contractor shall, at a minimum, perform Contract Resolution with fifteen (15) months of the "Financial Closeout Report."
 - F. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR §200 and 45 CFR §75, Subparts F-Audit Requirements.
 - G. Contract resolution includes:
 1. Ensuring that subcontractors expending \$750,000 or more in federal awards during the subcontractor's fiscal year have met the audit requirements of 2 CFR §200.501-200.521 and 45 CFR §75.501-75.521.
 2. Issuing a management decision on audit findings within six (6) months after receipt of the subcontractor's single audit report and ensuring that the subcontractor takes appropriate and timely corrective action;
 3. Reconciling expenditures reported to the Agency on Aging to the amounts identified in the single audit or other type of audit, if the Contractor was not subject to the single audit requirements. For a Contractor who was not required to obtain a single audit and did not obtain another type of audit, the reconciliation of expenditures reported to the Agency on Aging must be accomplished through performing alternative procedures (e.g., risk assessment [2 CFR §200.331 and 45 CFR §75.352]; documented review of financial statements; and documented expense verification, including match; etc.).
 - H. When alternative procedures are used, the Contractor shall perform financial management system testing which provides, in part, for the following:

1. Accurate, current, and complete disclosure of the financial results of each federal award or program.
 2. Records that identify adequately the source and application of funds for each federally funded activity.
 3. Effective control over, and accountability for, all funds, property, and other assets to ensure these items are used solely for authorized purposes.
 4. Comparison of expenditures with budget amounts for each federal award.
 5. Written procedures to implement the requirements of 2 CFR §200.305.
 6. Written procedures for determining the allowability of costs in accordance with 2 CFR §200 and 45 CFR §75, Subparts E-Cost Principles. [2 CFR §200.302 and 45 CFR §75.302]
 7. The Contractor shall document system and expense testing to show an acceptable level of reliability, including a review of actual source documents.
 8. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.
- I. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR §200 and 45 CFR §75, Subparts F – Audit Requirements:
1. Performed timely: Not less frequently than annually and a report submitted timely. The audit is required to be submitted within thirty (30) days after receipt of the auditor's report or nine (9) months after the end of the audit period, whichever occurs first. [2 CFR §200.512 and 45 CFR §75.512]
 2. Properly procured: Use procurement standards for auditor selection. [2 CFR §200.509 and 45 CFR §75.509]
 3. Performed in accordance with Generally Accepted Government Auditing Standards. [2 CFR §200.514 and 45 CFR §75.514]
 4. All inclusive: Includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs. [2 CFR §200.515 and 45 CFR §75.515]

5. Performed in accordance with provisions applicable to this program as identified in 2 CFR §200, and 45 CFR §75, Subpart F-Audit Requirements.
- J. Requirements identified in this Article shall be included in Contractor's contracts with Subcontractors. Further, the Contractor shall be required to include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements/standards; Agency on Aging shall have access to all audit reports and supporting work papers, and Agency on Aging has the option to perform additional work, as needed.
- K. The Contractor shall prepare a summary worksheet of results from the contract resolutions performed of all subcontractors. The summary worksheet shall include, but not limited to contract amounts; amounts resolved; amounts of match verified, resolution of variances; recovered amounts; whether an audit was relied upon or the contractor performed an independent expense verification review (alternative procedures) of the Contractor/Subcontractor in making a determination; whether audit findings were issued; and if applicable, issuance date of the management letter; and any communication or follow-up performed to resolve the findings.
- L. A reasonably proportionate share of the costs of audits required by, and performed in accordance with the Single Audit Act Amendments of 1996, as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:
 1. Any costs when audits required by the Single Audit Act, 2 CFR §200 and 45 CFR §75, Subparts F – Audit Requirements have not been conducted or have been conducted but not in accordance therewith; and
 2. Any costs of auditing a non-federal entity that is exempted from having an audit conducted under the Single Audit Act, 2 CFR §200 and 45 CFR §75, Subparts F – Audit Requirements because its expenditures under federal awards are less than \$750,000 during the non-federal entity's fiscal year.
 - a. The costs of a financial statement audit of a non-federal entity that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.
 - b. Pass-through entities may charge federal awards for the cost of agreed-upon-procedures engagements to monitor subcontractors who are exempted from the requirements of the Single Audit Act, 2 CFR §200 and 45 CFR §75, Subparts F – Audit Requirements. This cost is allowable only if the agreed-upon-procedures engagements are conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) attestation standards, paid for and

arranged by the pass-through entity, and limited in scope to one or more of the following types of compliance requirements: Activities allowed or not allowed; allowable costs/cost principles; eligibility; and reporting. [2 CFR 200.425]

M. This Section B applies only to Title III and Title VII.

The following closely related programs identified by CFDA number are to be considered as an "other cluster" for purposes of determining major programs or whether a program-specific audit may be elected. The Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit along with each of its subcontractors. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services, Administration for Community Living.

- 93.041 Special Programs for the Aging – Title VII-A, Chapter 3 – Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-A, Chapter 3)
- 93.042 Special Programs for the Aging – VII-A, Chapter 2 – Long Term Care Ombudsman Services for Older Individuals Title VII-A, Chapter 2)
- 93.043 Special Programs for the Aging – Title III, Part D – Disease Prevention and Health Promotion Services (Title III D)
- 93.044 Special Programs for the Aging – Title III, Part B – Grants for Supportive Services and Senior Centers (Title III B)
- 93.045 Special Programs for the Aging – Title III, Part C – Nutrition Services (Title III C)
- 93.052 National Family Caregiver Support Program – Title III, Part E (Title III E)
- 93.053 Nutrition Services Incentive Program (NSIP)

"Cluster of programs" means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development, student financial aid, and other clusters. "Other clusters" are defined by the consolidated CFR in the Compliance Supplement or as designated by a state for federal awards provided to its subcontractors that meet the definition of "cluster of programs." When designating an "other cluster," a state shall identify the federal awards included in the cluster and advise the subcontractors of compliance requirements applicable to the

cluster. A "cluster of programs" shall be considered as one program for determining major programs, as described in 45 CFR §75.525(a), whether a program-specific audit may be elected. (Federal Office of Management and Budget, [45 CFR §75 Requirements], Audits of States, Local Governments [45 CFR §75 Appendix V to Part 75 F.1], and Non-Profit Organizations [45 CFR §75 Appendix IV to Part 75 C.2.a])

- N. The Contractor must indicate which method of providing audit compliance will be in force during this Agreement (Appendix D, *Method of Providing Audit Compliance*).

ARTICLE XV. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:
1. **General Liability** of not less than \$1,000,000 per occurrence for bodily injury and property damage combined (higher limits may be required by the Agency on Aging in cases of higher than usual risks).
 2. **Automobile Liability, including non-owned automobile liability**, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.

If applicable, or unless otherwise amended by future regulation, the Contractor and subcontractors shall comply with the Public Utilities Commission General Order No. 115-G which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:

- \$ 750,000 if seating capacity is under 8.
 - \$1,500,000 if seating capacity is 8–15.
 - \$5,000,000 if seating capacity is over 15.
3. **Professional Liability** of not less than \$1,000,000 as it appropriately relates to services rendered. Coverage shall include medical malpractice and/or errors and omissions. (All programs except Title V).

- B. The insurance will be obtained from an insurance company acceptable to the State Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the State Department of General Services (DGS).
- C. Evidence of insurance shall be in a form and content acceptable to the State Department of General Services, Office of Risk and Insurance Management.

- D. The Contractor shall notify the Agency on Aging within five (5) business days of any cancellation, non-renewal, or material change that affects required insurance coverage.
- E. Insurance obtained through commercial carriers shall meet the following requirements:
 - 1. The Certificate of Insurance shall include the Contract Number listed on page 1 of this Agreement and provide the statement:

“The Fresno-Madera Area Agency on Aging, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the Fresno-Madera Area Agency on Aging under this Agreement.”
 - Professional Liability coverage is exempt from this requirement.
 - 2. The Fresno-Madera Area Agency on Aging shall be named as the certificate holder and its physical address (2520 West Shaw Lane, Suite 101A, Fresno, CA 93711) must be listed on the certificate.
- F. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Agency on Aging, at least thirty (30) days prior to the expiration date, a new Certificate of Insurance evidencing insurance coverage as provided herein for a period not less than the remaining Agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Agency on Aging may, in addition to any other remedies it may have, terminate this Agreement.
- G. A copy of each appropriate Certificate of Insurance, or letter of self-insurance, referencing this Agreement number shall be submitted to the Agency on Aging with this Agreement.
- H. The Contractor shall be insured against liability for Worker’s Compensation, or undertake self-insurance in accordance with the provisions of the California Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. [Cal. Labor Code §3700]
- I. The entity providing Ombudsman services must be insured or self-insured for professional liability covering all Ombudsman activities including, but not limited to, investigation of patient complaints.

- J. Contractor agrees to indemnify, defend, and save harmless the Fresno-Madera Area Agency on Aging, State of California, their officers, agents, and employees from any and all claims and losses occurring or resulting to any and all contractors, subcontractors, material, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and also from any and all claims and losses occurring or resulting in any person, firm or corporation, who may be injured or damaged by the Contractor in the performance of this Agreement.

ARTICLE XVI. DONATIONS

- A. The Contractor assures that voluntary contributions shall be allowed and may be solicited in accordance with the following requirements [OAA §315(b)]:
1. The Contractor or any subcontractors for any Title III or Title VII-A services shall not use means tests.
 2. Any Title III or Title VII-A client who does not contribute toward the cost of the services received shall not be denied services.
 3. Methods used to solicit voluntary contributions for Title III and Title VII-A services shall be non-coercive. Donation letters sent to clients shall stipulate that contributions are voluntary and not required to receive service. Donation letters may not resemble a bill or statement.
 4. Each Contractor will:
 - a. Provide each recipient with an opportunity to voluntarily contribute to the cost of the service;
 - b. Clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;
 - c. Protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution; and
 - d. Establish appropriate procedures to safeguard and account for all contributions.
 - e. Use all collected contributions to expand the services for which the contributions were given and to supplement (not supplant) funds received under this Agreement.

ARTICLE XVII. TERMINATION

- A. Termination Without Cause

1. The Agency on Aging may terminate performance of work under this Agreement at any time during the Agreement term, without cause in whole or in part, if the Agency on Aging determines that a termination is in the Agency on Aging's best interest, upon ninety (90) days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective ninety (90) days from the delivery of the Notice.

The Agency on Aging may, at its discretion, decline to negotiate additional one-year Agreement periods with the Contractor beyond the initial one-year contract award term, or, as a result of the Request for Proposal process, reject the Contractor's proposal for provision of service beyond the term of this Agreement; in such cases, the Agency on Aging shall provide a minimum of thirty (30) days written notice to the Contractor of non-renewal or non-award of the contract, effective on the last day of the term of this Agreement.

The parties agree that if the termination of the contract is due to a reduction or deletion of funding by the Department of Finance (DOF), Legislature, or Congress, the Notice of Termination shall be effective thirty (30) days from the delivery of the Notice from the State of California to the Agency on Aging.

The parties agree that for the terminated portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void.

2. The Contractor may terminate this Agreement at any time during the Agreement term by giving the Agency on Aging ninety (90) days written notice. In the event of termination notice, the Agency on Aging will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination of the Agreement.
3. Contractor shall, at least ninety (90) days prior to the end of the term of this Agreement, give written notice to the Agency on Aging if it intends to discontinue provision of any programs or services included in this Agreement during the subsequent Agreement period. The purpose of this requirement is to provide sufficient planning and transition time during the course of this Agreement period to ensure continuity of services to clients.

B. Termination for Cause

1. The Agency on Aging may terminate, in whole or in part, for cause the performance of work under this Agreement. Agency on Aging may terminate this agreement upon thirty (30) days written notice to the Contractor. The Notice of Termination shall be effective thirty (30) days from the delivery of the Notice of Termination unless the grounds for termination are due to threat to life, health or safety of the public and in that case, the termination shall take effect immediately. The Contractor shall submit to the Agency on Aging a Transition Plan as specified in this agreement. The grounds for termination for cause shall include, but are not limited to, the following:
 - a. In case of threat to life, health, or safety to the public, termination of the agreement shall be effective immediately.
 - b. A violation of the law or failure to comply with any condition of this Agreement.
 - c. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
 - d. Failure to comply with reporting requirements.
 - e. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the Contractor or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
 - f. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
 - g. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
 - h. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
 - i. The commission of an act of bankruptcy.
 - j. Finding of debarment or suspension.
 - k. The Contractor's organizational structure has materially changed.
 - l. The Agency on Aging determines that the Contractor may be considered a "high risk" agency as described in 2 CFR 200.205 AND

45 CFR 75.205. If such a determination is made, the Contractor may be subject to special conditions or restrictions, as described in Appendix F, *Sanction Policy*.

- m. Program operations have been suspended for more than three (3) consecutive months in any budget year, unless a longer period is granted in writing by the Agency on Aging.
 - 2. Termination of this Agreement shall take effect immediately in the case of an emergency, such as threat to life, health, or safety of the public, or when program operations have been suspended for more than three (3) consecutive months in any budget year. In all other cases of termination for cause, the termination shall take effect thirty (30) days subsequent to written notice to the Contractor.
 - 3. In the event of termination for cause, the Agency on Aging may proceed with the work in any manner deemed proper by the State. All costs to the Agency on Aging shall be deducted from any sum due the Contractor under this agreement and the balance, if any, shall be paid to the Contractor upon demand.
- C. In the event of termination of this Agreement by the Agency on Aging, the Agency will present written notice to the Contractor describing the action being taken by the Agency on Aging, the reason for such action, and any conditions of the termination, including, but not limited to, the date of termination, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination. Said notice shall also inform the Contractor of its right to appeal such decision to the Agency on Aging and of the procedure for doing so. (Appendix G, *Appeal Procedure for Service Providers*)
- D. Contractor's Obligation After Notice of Termination
- 1. After receipt of a notice of termination, and except as directed by the Agency on Aging, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:
 - a. Stop work as specified in the Notice of Termination;
 - b. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract;
 - c. Terminate all subcontracts to the extent they relate to the work

terminated;

- d. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause); and
- e. Comply with all additional terms of this Agreement pertaining to termination or cancellation of the Agreement.

ARTICLE XVIII. REMEDIES AND APPEAL PROCESS

- A. The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the Agency on Aging as a result of a breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project. Specifically, the Agency on Aging reserves the right to pursue all remedies allowed to it under the Older Americans Act, and all regulations adopted pursuant to the Act or implementing the Act, regarding the expenditure of federal funds.
- B. The Contractor may appeal an adverse determination by the Agency on Aging using the *Appeal Procedure for Service Providers*, which is set forth in Appendix G, for actions subject to appeal, as defined in Appendix G, Section I.A, *Actions Subject to Appeal*.
- C. The Contractor may appeal the Agency on Aging's final adverse determination once all administrative remedies contained in Appendix G, *Appeal Procedure for Service Providers*, have been exhausted, using the appeal process established in Title 22 CCR §7700 to 7710.
- D. The Contractor shall continue with the responsibilities under this Agreement during any dispute.
- E. Appeal costs or costs associated with any court review are not reimbursable.

ARTICLE XIX. AMENDMENTS, REVISIONS OR MODIFICATIONS

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed, and approved by both parties; the Agency on Aging, and by a duly authorized representative of the Contractor. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. Any provision of this Agreement which conflicts with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it and shall be binding on the

parties even though such amendment may not have been reduced in writing and formally agreed upon and executed by the parties.

- C. Failure by the contractor to take necessary actions required by amendments to this agreement shall constitute a material violation. An amendment is required to change the Contractor's name as listed on this Agreement. Any notice given to the Agency on Aging for a Contractor's change of legal name, main address, or name of Director shall be addressed to the Fresno-Madera Agency on Aging's Executive Director and/or Program Director on the Contractor's letterhead. Upon receipt of legal documentation of the name change, the Agency on Aging will process the amendment. Invoices presented by the Contractor with the Contractor's new name cannot be paid prior to the Agency on Aging's approval of said amendment.
- D. The Agency on Aging reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch and State government.

ARTICLE XX. NOTICES

- A. Any notice to be given hereunder by either party to the other may be affected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, provided the Contractor retains receipt, and shall be communicated of actual receipt.
- B. Notices to the Agency on Aging shall be addressed to the Fresno-Madera Area Agency on Aging at its current physical address, 2520 West Shaw Lane, Suite 101A, Fresno, CA 93711, and notices to the Contractor shall be addressed to the Contractor's address as indicated on page 1 of this Agreement, unless otherwise requested in writing.
- C. Each party may change its address originally provided in this Agreement by written notice to the other party in accordance with this Article.