

COUNTY OF SAN MATEO
AGING AND ADULT SERVICES
MEMORANDUM

Date. APR 11 2001
Hearing date: APR 24 2001

TO Honorable Board of Supervisors
FROM Charlene A. Silva, Director *CS*
SUBJECT Agreement with the State of California Department of Health Services for Long-Term Care Innovation Grant Number IG-0001-10

RECOMMENDATION

- 1 Adopt a resolution authorizing the President of the Board to execute Agreement Number IG-0001-10 with the State of California Department of Aging (CDA) for a Long-Term Care Innovation Planning Grant, and
- 2 Approve an Appropriation Transfer Request (ATR) to set up additional appropriation and recognize additional revenues in the amount of \$93,760

Background

In 1992 Aging and Adult Services (AAS) convened a broad-based group of seniors, persons with disabilities, caregivers, and service providers to form the New Beginning Coalition. The mission of the Coalition was to improve the quality of life for San Mateo County's diverse population of older persons and adults with disabilities. The Coalition, in partnership with AAS, the Commission on Aging and the Commission on Disabilities, developed a strategic plan for services that provides direction for continued service delivery improvements. A key objective of the plan was to integrate home- and community-based services (HCB) along with acute medical and long-term institutional care. The Long-Term Supportive Services Program (LTSSP) was envisioned as the model to accomplish this objective.

In May 2000 Aging and Adult Services received a grant for \$50,000 from the California Department of Health Services for a Long-Term Care Integration Planning (LTSSP) Grant. Funds from this grant were used to develop a menu of services to be provided in LTSSP, plan for and develop protocols for pre-admission screening to LTSSP, Care Coordination, Adult Day Care, and Skilled Nursing Facilities; and develop a plan to enhance communication and service delivery among consumers, care coordinators and primary care providers.

On January 23, 2001 you authorized Aging and Adult Services to apply for a Partnership Building and Planning Grant to support accessible transportation as a key element in the development of an integrated community-based service system.

Discussion

CDA has awarded Aging and Adult Services a Long-Term Care Innovation Grant for a Strategic Plan for Accessible Transportation Services (SPATS). SPATS is a collaborative effort among Aging and Adult Services, SamTrans, Self-Help for the Elderly, and other community agencies. Funds from this grant will be used to research available transportation options for seniors and adults with disabilities, develop a questionnaire to gather input from members of targeted population (groups) who are not presently connected to our service system; conduct a series of community forums to learn what seniors and adults with disabilities want and need from a transportation system, and hire a consultant who will develop and implement the community forums, collect and analyze data, and prepare a final report.

County Counsel has reviewed and approved the agreement as to form and content

Fiscal Impact

The term of the agreement is February 1, 2001 to June 30, 2002. The agreement provides \$93,760 to support accessible transportation. An Appropriation Transfer Request (ATR) has been prepared to add these revenues and related appropriations to Aging and Adult Services' approved budget for 2000-2001. Any ongoing expenditures will be reduced if funds are unavailable in future years. There is no impact on the county General Fund as a result of this Agreement and approval of the ATR.

RECOMMENDED


HEALTH SERVICES AGENCY

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

RESOLUTION APPROVING AGREEMENT IG-0001-10 WITH THE STATE OF
CALIFORNIA DEPARTMENT OF AGING FOR A LONG-TERM CARE
INNOVATION GRANT

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, this Board of Supervisors supports the development of community-based adult care alternatives that will help adults with functional impairments and older adults remain in the most enriching, least restrictive community-based setting for as long as they desire, and

WHEREAS, this Board supports the goal that allows consumers of publicly funded long-term care services to remain an integral part of their family and community life; and

WHEREAS, this Board finds that new and effective long-term care alternatives will benefit San Mateo County adults with functional impairments and older adults

NOW, THEREFORE, IT IS RESOLVED that Agreement No IG-0001-10 is hereby approved, and the President of this Board of Supervisors is hereby authorized and directed to execute the aforesaid Agreement for and on behalf of the County of San Mateo, and the Clerk of the Board shall attest the President's signature thereto,

BE IT FURTHER RESOLVED that the director of Health Services is hereby authorized to execute subsequent amendments and minor modifications to the Agreement for this Long-Term Care Innovation Grant not to exceed \$25,000.

STANDARD AGREEMENT

STD 213 (NEW 02 98)

AGREEMENT NUMBER IG-0001-10	AMENDMENT NUMBER
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- 1 This Agreement is entered into between the State Agency and the Contractor named below
 STATE AGENCY S NAME
 California Department of Aging
 CONTRACTOR S NAME
 Health Services Agency, Aging and Adult Services Division
- 2 The term of this Agreement is February 1, 2001 through June 30, 2002
- 3 The maximum amount of this Agreement is \$ 93,760 00
- 4 The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement

Exhibit A – Scope of Work	1	Page(s)	
Exhibit B – Budget Detail and Payment Provision	11	Page(s)	
* Exhibit C – General Terms and Conditions	GTC800 (Number)		9/12/2000 (Dated)
Exhibit D – Special Terms and Conditions	13	Page(s)	
Exhibit E – Additional Provisions	2	Page(s)	
Exhibit F -- Copyrights and Rights in Data	6	Page(s)	

*View at www.dgs.ca.gov/contracts

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR S NAME (If other than an individual state whether a corporation partnership etc.) Health Services Agency, Aging and Adult Services Division		
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING Michael D. Nevin, President Board of Supervisors, County of San Mateo		
ADDRESS 225 37th Avenue, San Mateo California 94403		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Aging		
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING Rachel de la Cruz, Manager Business Services and Contracts Section		
ADDRESS 1600 K Street, Sacramento, California 95814		<input type="checkbox"/> Exempt per _____

Scope of Work - Exhibit A

SCOPE OF WORK

ARTICLE I. SCOPE OF WORK NARRATIVE

- A Contractor shall in collaboration with Sam Trans the County's public transit agency, create a strategic plan for accessible transportation services for the elderly and adults with disabilities.
- B. Contractor shall survey the needs of the under-served populations and create an enhanced transportation plan that meets the needs of all San Mateo County residents
- C. Contractor shall create an oversight structure that will provide supervision and support to the strategic planning process by February 2001.
- D. Contractor shall recruit and select a consultant to supervise the planning, data collection analyze the data and prepare a final report to the contractor by April 2001.
- E Contractor shall initiate and finalize a public information campaign and outreach strategies to launch the strategic planning process starting February 2001 and completing by June 2001.
- F Contractor shall Develop and test a survey questionnaire by March 2001
- G Contractor shall hold 5 public forums to elicit information about the needs from the target populations during June July, August, September and October 2001.
- H. Contractor shall create an outreach to individuals who cannot participate in the forums using cable access T.V , small group forums and key informant interviews during November and December 2001
 - 1 Contractor shall prepare and submit a final plan by March 2002
 - 2. Contractor shall implement first stage recommendations by April 2002.
 - 3 Contractor shall develop a final report showing the measurable outcomes of the above listed items and submit this report to CDA by August 2002.

ARTICLE II BINDING TO RFP

The Contractor is bound to the Proposal submitted by the Contractor in response to the Long Term Care Innovation Grant Request for Proposal

Budget Detail and Payment Provisions – Exhibit B

BUDGET DETAIL AND PAYMENT PROVISIONS

ARTICLE I. FUNDS

A Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this 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 Department of Personnel Administration's rules and regulations. This is not to be construed as limiting the Contractor from paying any differences in costs from funds other than those provided by this Department between the Department of Personnel Administration 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 (CCR Title 2 Section 599 615 et seq.)
3. The Department reserves the right to refuse payment to the Contractor or later disallow costs for any expenditure, as determined by the Department not to be in compliance with this Agreement unrelated or inappropriate to contract activities or when inadequate supporting documentation is presented or where prior approval was required but was either not requested or not granted.

B Accountability for Funds

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 kept in accordance with Generally Accepted Accounting Principles and Procedures.

C Unexpended Funds

Upon termination, cancellation or expiration of this Agreement or dissolution of the entity, the Contractor shall return to the State 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.

D Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability of 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.

Budget Detail and Payment Provisions – Exhibit B

2. This Agreement is valid and enforceable only if sufficient funds are made available by the Budget Acts of the appropriate fiscal years for the purposes of this program(s). In addition, this Agreement is subject to any additional restriction, limitations or conditions enacted which may affect the provisions, terms, or funding of this Agreement in any manner.
3. If the Legislature or Congress does not appropriate sufficient funds for this program, this Agreement shall be amended to reflect any reduction in funds.
4. In the event that insufficient funds are appropriated, this Agreement may be canceled at any time by either party, by giving thirty (30) days written notice to the other party.

E. Interest Earned

If, as a result of advanced funds, the project earns interest on funds awarded by the State, that interest shall be identified as income to the program and used for program expenditures, with full documentation on file.

F. Close-out Report

The Financial Closeout Report shall be submitted within sixty (60) calendar days following the end of the fiscal year or within thirty (30) days following termination prior to the end of the contract period to the California Department of Aging Long-Term Care Innovation Grants Branch, 1600 K Street, Sacramento, CA 95814.

ARTICLE II BUDGET AND BUDGET REVISION

- A. The Contractor shall receive payment for expenses only as itemized in the approved budget which is hereby incorporated by reference.
- B. The Budget Narrative must set forth in detail the reimbursable items, unit rates, and extended total amounts for each line item. The Contractor's budget shall include, at a minimum, the following items when reimbursable under this Agreement:
 1. Direct and overhead costs
 2. Monthly, weekly, or hourly rates, as appropriate, and personnel classifications together, with the percentage of personnel time to be charged to this Agreement, as well as fringe benefits.
 3. Rental reimbursement items should specify the unit rate, such as the rate per square foot.
 4. If purchase of equipment is a reimbursable item, the equipment to be purchased should be specified.
 5. Any travel outside the State of California.

Budget Detail and Payment Provisions – Exhibit B

- C The Contractor shall ensure that the subcontractor shall submit a budget which shall be incorporated by reference into the subcontract and will have, at a minimum, the categories listed in Section B above.
- D. The Contractor may make changes in budget allocations, subject to the following conditions:
 - 1. The Contractor shall request prior approval from the Department for any line item transfer of funds that is 10% or more
 - 2. The Contractor shall maintain a written record of all budget changes clearly documenting line item changes. The record shall include the date of the transfer the amount and the purpose This record shall be available to the Department upon request and shall be maintained in the same manner as all other financial records.

ARTICLE III. PAYMENT

- A To receive payment, the Contractor shall prepare and submit a Monthly Expenditure Report/Request for Funds Form
- B. Monthly Reimbursement Payments
 - 1. The Contractor shall submit a Monthly Expenditure/Request for Funds Form to the Department no later than fifteen (15) days after the close of the month for which expenditures occurred
 - 2. The Contractor shall be reimbursed for actual cash expenditures beginning with the February 2001 expenditure report.
- C. Monthly Payments

The Contractor shall ensure the implementation of policy and procedures developed by the Department whereby the subcontractors report expenditures and request payment monthly in arrears for actual expenses incurred.

LTC Innovation Grants Budget
For the Period of February 1, 2001 through June 30, 2002

PERSONAL SERVICES NOT APPLICABLE

Salaries and Wages	%	Fiscal Year	Fiscal Year	Total Budget	
<u>Position Title or Classification</u>	<u>Salary</u>	<u>of Time</u>	<u>2000-01</u>	<u>2001-02</u>	<u>Amount</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Total Salaries and Wages			_____	_____	_____

Staff Benefits (If you do not itemize or if you use a % of salaries explain in narrative)

OASDI	_____	_____	_____
Retirement	_____	_____	_____
Workers Compensation	_____	_____	_____
Industrial Disability Leave	_____	_____	_____
Non-Industrial Disability Leave	_____	_____	_____
Unemployment Insurance	_____	_____	_____
Other (Specify in Narrative)	_____	_____	_____
Total Staff Benefits			_____

TOTAL PERSONAL SERVICES

LTC Innovation Grants Budget
For the Period of February 1, 2001 through June 30 2002

OPERATING EXPENSES	Fiscal Year 2000-01	Fiscal Year 2001-02	Total Budget Amount
Advertising	100	400	500
Dues and Subscriptions			
Office Supplies	500	1,000	1,500
Equipment			
Equipment \$5 000 or more			
Equip Rental Maint and Repairs			
Furniture			
Insurance			
Printing			
Photocopy	250	2,250	2,500
Communications			
Telephone			
Postage			
Travel	62	648	710
Training-Staff			
Facilities Space Rental or Lease			
Dollar Rate _____ X Number of Sq Ft _____			
Utilities			
Consultant Services-Interdept.			
Consultant Services-External	17,150	50,100	67,250
<u>Other items of Expense (List)</u>			
Video Production & Copies	-0-	10,000	10,000
Use of Public Access TV	-0-	10,000	10,000
Refreshments at Community Mtgs.	100	400	500
TOTAL OPERATING EXPENSE	<u>continued on next page</u>		
TOTAL DIRECT COSTS			
(Personal Services and Operating Costs)			

LTC Innovation Grants Budget
For the Period of February 1 2001 through June 30, 2002

CONTINUED FROM P. 2A

OPERATING EXPENSES	Fiscal Year 2000-01	Fiscal Year 2001-02	Total Budget Amount
Advertising			
Dues and Subscriptions			
Office Supplies			
Equipment			
Equipment \$5,000 or more			
Equip Rental Maint and Repairs			
Furniture			
Insurance			
Printing			
Photocopy			
Communications			
Telephone			
Postage			
Travel			
Training-Staff			
Facilities Space Rental or Lease			
Dollar Rate _____ X Number of Sq Ft _____			
Utilities			
Consultant Services-Interdept.			
Consultant Services-External			
<u>Other items of Expense (List)</u>			
Meeting Room Rental	-0-	800	800
<hr/>			
TOTAL OPERATING EXPENSE	<u>18,162</u>	<u>75,598</u>	<u>93,760</u>
TOTAL DIRECT COSTS	<u>18,162</u>	<u>75,598</u>	<u>93,760</u>
(Personal Services and Operating Costs)			

LTC Innovation Grants Budget
For the Period of February 1, 2001 through June 30, 2002

	2000-01	2001-02	Amount
INDIRECT COSTS NOT APPLICABLE	_____	_____	_____
<u>CONSUMER SERVICE/PURCHASE EXPENSES (List)</u>	<u>2000-01</u>	<u>2001-02</u>	<u>Amount</u>
NOT APPLICABLE	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<u>TOTAL CLIENT SERVICE/PURCHASE EXPENSES</u>	_____	_____	_____
TOTAL GRANT COSTS	<u>18,162</u>	<u>75,598</u>	<u>93,760</u>

A BUDGET NARRATIVE MUST BE PROVIDED FOR EVERY BUDGET LINE ITEM.

2. Budget Narrative

a. Personal Services:

No funds for personal services are requested AAS and SamTrans, however, are contributing the following staff for the duration of the project. These are detailed below.

b. Operating Expenses:

Advertising costs will be used to promote and advertise community meetings and to encourage attendance and participation.

Office Supplies include paper, pens folders nametags, and other supplies to support the project.

Photocopying. \$250 is budgeted in year 01 and \$2 250 in year 02 to cover the cost of copying materials for community meetings and producing copies of the final plan.

Travel. Employees will be reimbursed for the use of their cars on county business at the rate of 31 cents per mile. AAS will reimburse the primary transportation consultant for the use of his/her personal automobile to conduct project business. Three hundred ten dollars (\$310) is budgeted for these mileage expenses based on the following calculations: 200 miles in FY 2000-01 ($200 \times .31 = \$62$) and 800 miles ($800 \times .31 = \248) in FY 2001-02 for a total of \$310. An additional \$400 is included in FY 2001-02 for two staff to attend a meeting or training in Sacramento associated with the grant (\$100 mileage parking and tolls for trip from San Mateo to Sacramento plus lodging and meals @ \$150 per person).

Consultant Services External. Funds are requested to support the services of external consultants. The primary consultation service associated with this project is a transportation consultant to direct the planning effort and author the Enhanced Transportation Plan Selection procedures are described under the Scope of Work and are consistent with policies established by the Health Services Agency and the County of San Mateo. The contract will be between AAS and the individual selected. Costs were calculated on a total of 450 total hours @ \$100 per hour. one hundred fifty (150) hours in FY 2000-01 and 300 hours in FY 2001-02 for a total of \$45,000 (450×100).

Other external consultant services include \$1 500 in FY 2001-02 for technical support necessary to tape the community meeting and interface with the cable television station (15 hours @ \$100 per hour) \$10 000 (\$2 000 in FY 2000-01 and \$8,000 in FY 2001-02) to pay community-based agencies for their assistance with language and outreach issues \$8,000 in FY 2001-02 for captioning services (captioning the video for hearing-impaired and in three languages (e.g., Cantonese Spanish and Tagalog) \$2,000 for web page assistance and \$750 for translation services (sign language and other languages) at the community meetings (1 meeting @ \$150 in FY 2000-01 and 4 meetings @ \$150 each in FY 2001-02).

Total Consultant Services External for FY 2000-01 are budgeted at \$17,150 for FY 2001-02 \$50,100 is budgeted. Combined total budget for external consultant services is \$67,250.

Other Items of Expense

Video Production and Copies. AAS will contract with a video production company to tape, edit, produce videos of one or two of its public forums. Copies of the video (or videos) will be made for use on public access television as well as in the community.

Use of Public Access Television is budgeted at \$10,000 in FY 2001-02 based on an estimated cost of \$1,000 per hour show (10 shows @ \$1,000 per show for a total of \$10,000).

Refreshments at community meetings are budgeted at \$100 per meeting: \$100 in the first year and \$400 in the second year.

Meeting Room Rental. Funds are requested for the rental of meeting rooms for public forums and other outreach activities. Some meeting space such as the SamTrans Conference Room, will be provided free. In other cases AAS will need to rent space from non-profit, public or for-profit entities in the community. AAS estimates a total of four meetings in rented space in FY 2001-02 @ \$200 each for a total of \$800.

3. CONTRIBUTED SERVICES.**a. Personal Services****AAS:**

(1) .15 FTE Community Program Specialist III

	<u>2000-01</u>	<u>2001-02</u>
Salary.	3 697 (base is \$4 929/mo)	9 595 (base is \$5 331/mo)
Benefits: (.31)	<u>1,146</u>	<u>2,974</u>
Total	4 843	12,569

(2) .10 FTE Health Services Manager I

	<u>2000-01</u>	<u>2001-02</u>
Salary:	3,144 (base is \$6,288/mo)	7,904 (base is \$6 587/mo)
Benefits: (31)	<u>975</u>	<u>2,450</u>
Total	4,119	10 354

(3) .02 FTE Financial Services Manager II

	<u>2000-01</u>	<u>2001-02</u>
Salary:	728 (base is \$7,282/mo.)	1,831 (base is \$7 628/mo)
Benefits: (31)	<u>226</u>	<u>568</u>
Total	954	2 399

TOTAL AAS	9,916	25,322
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TOTAL AAS FOR GRANT		35,238
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EXHIBIT B

SamTrans:

.20 FTE Accessibility Coordinator

	<u>2000-01</u>	<u>2001-02</u>
Salary	4 125 (base is \$4 125/mo.)	10,296 (base is 4 290/mo)
Benefits* (.22)	<u>908</u>	<u>2,265</u>
Total	5 033	12 561

TOTAL SAMTRANS FOR GRANT 17,594

Total Contributed Personal Services: 52,832

Special Terms and Conditions - Exhibit D

SPECIAL TERMS AND CONDITIONS

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

- A The term 'Agreement' shall mean the coversheet (Std. 213) all attached exhibits and amendments unless otherwise provided in this Article. In case of conflict between exhibits Exhibit C and D shall prevail.
- B State, and 'Department' means the State and the California Department of Aging (CDA) interchangeably.
- C 'Contractor' means the entity to which funds are awarded under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services
- D Subcontractor means the legal entity that receives funds from the Contractor under this Agreement.
- E Reimbursable item' also means allowable cost and compensable item.
- F CFR means Code of Federal Regulations CCR means California Code of Regulations GC means Government Code W & I means Welfare and Institutions Code USC means United States Code. PCC means the Public Contract Code.

ARTICLE II ASSURANCES

- A Nondiscrimination
 - 1. The Contractor shall comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261)
 - 2. The Contractor shall comply with Sections 503 and 504 of the Rehabilitation Act of 1973 as amended (29 USC 794) and all requirements imposed by the applicable Health and Human Services regulations (45 CFR Part 84)
- B Confidentiality
 - 1. Identity shall include but not be limited to name identifying number symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph
 - 2. The Contractor shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant
 - 3. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement

Special Terms and Conditions - Exhibit D

ARTICLE II. ASSURANCES (Continued)

4. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the participant any such identifying information to anyone other than the State without prior written authorization from the State except when subpoenaed by a court
5. The Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release nor shall the Contractor accept such from any participant

C Law, Policy and Procedure, Licenses, and Certificates

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 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 judgement. The Contractor and its subcontractors shall keep in effect all licenses, permits, notices, and certificates that are required by law.

D Standards of Work

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

E Code of Conduct

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 State determines that a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by the State 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.

Special Terms and Conditions - Exhibit D

ARTICLE II. ASSURANCES (Continued)

F. 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 State shall have the right to annul 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 contingent fee.

G. 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.

H. Contracts in Excess of \$100,000

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

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

I. Debarment

- 1 The Contractor must not make any award or permit any award at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal/State assistance programs.
- 2 The Contractor shall timely execute any and all amendments to this Agreement or certificates or other required documentation relating to their subcontractors' debarment/suspension status.

J. Agreement Authorization

- 1 If a public entity, the Contractor shall submit to the Department a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private entity, the

Special Terms and Conditions - Exhibit D

ARTICLE II ASSURANCES (Continued)

Contractor shall submit to the Department an authorization by the board of directors to execute this Agreement referencing this Agreement number.

2. Documentation in the form of a resolution by the Governing Board of the Area Agency is required for the original and each subsequent amendment to the Agreement. This requirement may also be met by a single resolution from the Governing Board authorizing the Area Agency Director to execute the original and all subsequent amendments to the Agreement.

K Availability

The Contractor shall make staff available to the State for training and meetings which the State may find necessary from time to time.

L Administration

1. If a corporation, JPA or partnership, 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.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any subcontracting corporation or Joint Powers Authority (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 corporation, partnership or the Joint Powers Authority (JPA) shall result in suspension or termination of this Agreement with the Department until satisfactory status is restored. Failure to maintain good standing by a subcontracting corporation or JPA shall result in suspension or termination of the subcontract until satisfactory status is restored.

ARTICLE III. AGREEMENT

- A. All elements of this Agreement as defined in Article I Section A. of this exhibit and as approved by the Department in making this award are hereby incorporated by reference as if fully set forth herein.
- B. A copy of this Agreement is on file and available for inspection at the California Department of Aging, 1600 K Street, Sacramento, California 95814.

ARTICLE IV COMMENCEMENT OF WORK

Should the Contractor or subcontractor begin work in advance of receiving notice that the Agreement is approved, that work may be considered as having been performed at risk as a mere volunteer and may not be reimbursed or compensated.

Special Terms and Conditions - Exhibit D

ARTICLE V. SUBCONTRACTS

- A. The Contractor shall satisfy settle and resolve all administrative programmatic and fiscal aspects of the program(s) including issues that arise out of any subcontracts and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims protests of award, or other matters of a contractual nature.
- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to the responsibility for handling property in accordance with Article VIII and ensuring the keeping of access to availability and retention of records of subcontractors in accordance with Article VI
- C. Funds for this Agreement shall not be obligated in subcontracts for services beyond the ending date of this Agreement unless all funding under this Agreement is appropriated without regard for fiscal year and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for or on behalf of or incur obligations on behalf of the State
- E. Copies of subcontracts Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XII Section E
- G. The Contractor shall require all its subcontractors to indemnify defend and save harmless the Contractor its officers agents and employees from any and all claims and losses accruing to or resulting from any contractors, subcontractors, materialmen, 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 in the performance of this Agreement
- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Department These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department

ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records (which shall include but not be limited to accounting records contracts agreements letters of agreement insurance documentation in accordance with Article XII Memorandums and/or

Special Terms and Conditions - Exhibit D

ARTICLE VI RECORDS (Continued)

Letters of Understanding and patient records) of its activities and expenditures hereunder in a form satisfactory to the State and shall make all records pertaining to this Agreement available for inspection and audit by the State or its duly authorized agents at any time during normal business hours. All such records must be maintained and made available by the Contractor (a) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department's Audit Branch (b) for such longer period if any as is required by applicable statute by any other clause of this Agreement or by Sections B. or C. or (c) for such longer period as the Department deems necessary.

- B If this Agreement is completely or partially terminated the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A above. The Contractor shall ensure that any resource directories and all client records remain the property of the Department and are returned to the Department upon termination of this Agreement
- C In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor
- D Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- E After the authorized period has expired, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality

ARTICLE VII REPORTS

Reports shall be submitted in accordance with Exhibit E, Article IV

ARTICLE VIII. PROPERTY

- A Unless otherwise provided for in this Article, property refers to all assets capitalized or noncapitalized used in operation of this Agreement. Property that is capitalized is referred to as property, plant, and equipment. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, computer floppy disks, file folders, etc.
- B Property meeting all of the following criteria are subject to the capitalization requirements must. Subject property must

Special Terms and Conditions - Exhibit D

ARTICLE VIII. PROPERTY (Continued)

1. have a normal useful life of at least 1 year
2. have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12 000 total would not meet this capitalization requirement) and
3. be used to conduct business under this Agreement

As used in this Agreement the term equipment shall refer only to capitalized property

- C. Noncapitalized property are those items which do not meet all three requirements in this Article Section B above
- D. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- E. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or noncapitalized. 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.

- F. The Contractor shall record the following information when property is acquired
1. Date acquired
 2. Property description (include model number),
 3. Property identification number (serial number)
 4. Cost or other basis of valuation
 5. Fund source and
 6. Rate of depreciation (or depreciation schedule), if applicable.

Special Terms and Conditions - Exhibit D

ARTICLE VIII PROPERTY (Continued)

The Contractor shall keep track of property purchased with Contract funds whether capitalized or not. The Contractor shall submit to the Department annually with the Financial Closeout Report a current inventory of property furnished or purchased by the Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall maintain an annual inventory of property furnished or purchased by the subcontractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose. The Contractor shall use the Report of Project Property Furnished/Purchased with Agreement Funds (CDA 32) to report property to the Department.

- G Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement the Contractor must obtain approval from the Department regardless of the acquisition value. Disposition which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the Department. The Contractor shall use the Request to Dispose of Property (CDA 248) to dispose of property. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- H The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement unless otherwise required by federal law or regulations.
- I 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 property during the period of the project and until the Contractor has complied with all written instructions from the Department regarding the final disposition of the property.
- J. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity or to the State.
- K To exercise the above right, within 120 days after termination of the Agreement or notification of the Contractor's dissolution, the State will issue specific written disposition instructions to the Contractor.
- L The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
 - 1 Another Department program providing the same or similar service, or
 - 2 Another Department-funded program, or
 - 3 State/federally-funded program.

Special Terms and Conditions - Exhibit D

ARTICLE VIII PROPERTY (Continued)

- M The Contractor may share use of the property and equipment or allow use by other programs upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.
- N The Contractor or subcontractor 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.
- O. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.
- P The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement.

ARTICLE IX ACCESS

The Contractor shall provide access to the Bureau of State Audits or any of their duly authorized State representatives any books, documents, papers, and records of the Contractor or subcontractor which are pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

ARTICLE X MONITORING, ASSESSMENT, AND EVALUATION

- A Authorized State representatives shall have the right to monitor, assess, and evaluate the Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of project premises, and inspection of food preparation sites, as appropriate, and interviews of project staff and participants.
- B The Contractor shall cooperate with the State in the monitoring, assessment, and evaluation processes, which include making any program and administrative staff (fiscal, etc.) available during any scheduled process.

ARTICLE XI AUDIT

- A If the total contract amount exceeds \$100,000, the Contractor shall arrange for an audit to be performed in accordance with Generally Accepted Governmental Auditing Standards, and a copy submitted to the Department. The audit shall be a program specific financial audit of all grant expenditures and revenues to cover the entire contract period.
- B If the total contract amount is \$100,000 or less, a program specific audit is not required.

Special Terms and Conditions - Exhibit D

ARTICLE XI. AUDIT (Continued)

- C For all contract amounts, if the Contractor is required to have an audit performed in accordance with Single Audit Act Amendments of 1988 and Circular A-133 a copy of this audit should be submitted to the Department for each fiscal year of the contract. Submission of an acceptable Single Audit may be substituted for the program specific audit required by Section A of this article.
- D The Department shall have access to all audit reports of the Contractor and subcontractors and the option to perform audits and/or additional work as needed.
- E. Where the Contractor engages an independent auditor, the Contractor shall provide for clause permitting access by the State to the work papers of the independent auditor.
- F. The Contractor shall cooperate with and participate in any further audits which may be required by the State. Audits to be performed shall be minimally financial and compliance audits and may include economy and efficiency and/or program results audits.

ARTICLE XII INSURANCE

- A Prior to commencement of any work under this Agreement the Contractor shall provide for the term of this Agreement the following insurance

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 Department in cases of higher than usual risks.

Automobile liability including non-owned auto liability of not less than \$1 000 000 for volunteers and paid employees providing services supported by this Agreement.

If applicable contractors and subcontractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-E 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

unless otherwise amended by future regulation.

Professional liability of not less than \$1 000 000 as it appropriately relates to the services rendered. Coverage may include medical malpractice and/or errors and omissions.

Special Terms and Conditions - Exhibit D

ARTICLE XII INSURANCE (Continued)

- B The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management or be provided through partial or total self-insurance acceptable to the Department of General Services.
- C Evidence of insurance shall be in a form and content acceptable to the Department of General Services Office of Risk and Insurance Management Insurance obtained through commercial carriers shall meet the following requirements.
1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium
 2. The Certificate of Insurance shall provide that the Department of Aging State of California its officers agents employees and servants are included as additional insureds with respect to work performed for the State of California under this Agreement. Professional liability coverage is exempt from this requirement.
 3. The Department shall be named the certificate holder and the address must be listed on the certificate
- D 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 Department 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 Department may, in addition to any other remedies it may have terminate this Agreement.
- E The Contractor shall require its subcontractors under this program 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 auto liability including non-owned auto and professional liability and further the Contractor shall require all of its subcontractors to hold the Contractor harmless. The Contractor shall maintain certificates of insurance for all its subcontractors.
- F A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement
- G Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700)

Special Terms and Conditions - Exhibit D

ARTICLE XIII. SUSPENSION OR TERMINATION

- A. The State may suspend or terminate the Contractor or project operations hereunder and any unearned funds shall be returned to or retained by the State in the event of: (1) a violation of the law or failure to comply with any condition of this Agreement; (2) inadequate program performance; (3) failure to comply with reporting requirements; (4) evidence that the Contractor is in such an unsatisfactory financial condition as determined by the Department as to endanger performance of this Agreement which includes the loss of other funding sources; (5) delinquency in payment of taxes or the costs of performance of this Agreement in the ordinary course of business, (6) appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property or institution of bankruptcy, reorganization arrangement of liquidation proceedings by or against the Contractor; (7) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income; (8) the commission of an act of bankruptcy; (9) finding of debarment or suspension; or (10) that the Contractor's organizational structure has materially changed.
- B. Such suspension or termination shall be effective immediately in the case of threat to health or safety of the public or in all other cases, upon thirty (30) days written notice to the Contractor of the action being taken, the reason for such action and any conditions of the suspension or termination. Said notice shall also inform the Contractor of its right to appeal such decision to the State and of the procedure for doing so.
- C. The program(s) shall be automatically terminated when its 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 Department.
- D. In the event of termination notice, the Department will present written notice to the Contractor of any conditions, such as care of clients, return of unspent funds and disposition of property, which must be met prior to termination.
- E. The Department may determine that a Contractor may be considered high risk as described in 45 CFR Part 92.12 for local governments and 45 CFR Part 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.

ARTICLE XIV. REMEDIES

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 Department as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

ARTICLE XV. DISSOLUTION OF ENTITY

The Contractor shall notify the Department immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

Special Terms and Conditions - Exhibit D

ARTICLE XVI REVISIONS, WAIVERS, OR MODIFICATIONS

- A Should either party during the term of this Agreement desire a revision waiver, or modification in this Agreement such revision waiver or modification shall be proposed in writing to the other party. The other party shall accept in writing within thirty (30) days of receipt of request or it shall be considered rejected except those revisions waivers or modifications put into effect per the CDA amendment process. Once accepted such revisions waivers or modifications shall require an Agreement amendment through the Department's amendment process to provide for the change mutually agreed to by the parties. The revision waiver or modification is not effective until the appropriate State processes have been completed

- B The State reserves the right to revise waive or modify the Agreement to reflect any restrictions limitations or conditions enacted by Congress or the Legislature

Additional Provisions – Exhibit E

ADDITIONAL PROVISIONS

ARTICLE I NOTICING

- A Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail overnight mail postage prepaid return receipt requested or overnight mail, provided Contractor retains receipt, and shall be communicated as of actual receipt
- B Notices mailed to the State shall be addressed to the California Department of Aging Long-Term Care Innovation Grants Branch 1600 K Street Sacramento California 95814. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement
- C Either party may change its address by written notice to the other party in accordance with this Article

ARTICLE II. APPEAL PROCESS

In the event of an Agreement dispute or grievance regarding the terms and conditions of this Agreement both parties shall abide by the following procedures.

- A The Contractor shall first discuss the problem informally with the Long-Term Care Innovation Grants Program staff. If the problem is not resolved, the Contractor must, within fifteen (15) working days of the failed attempt to resolve the dispute with the Long-Term Care Innovation Grants Program staff, submit a written complaint together with any evidence to the Chief Office of Planning Policy & Program Development. The complaint must include the disputed issues, the legal authority/basis for each issue which supports the Contractor's position and the remedy sought. The Chief Office of Planning Policy & Program Development shall, within fifteen (15) working days after receipt of the Contractor's written complaint, make a determination on the dispute and issue a written decision and reasons therefore. All written communication shall be pursuant to Article I of this Exhibit. Should the Contractor disagree with the decision of the Chief Policy of Planning Policy & Program Development, the Contractor may appeal the decision to the Chief Deputy Director of the Department.
- B The Contractor's appeal must be submitted within ten (10) working days from the date of the decision of the Chief Office of Planning Policy & Program Development, be in writing, state the reasons why the decision is unacceptable, and include the original complaint, the decision that is the subject of appeal, and all supporting documents. Within twenty (20) working days from the date of the Contractor's appeal, the Chief Deputy Director or designee shall meet with the Contractor for review of the issues raised on appeal and issue a final written decision.

Additional Provisions – Exhibit E

- C The Contractor may appeal the final decision of the Chief Deputy Director in accordance with the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder (Title 1 Subchapter 2.5 commencing with Section 251, or Subchapter 3 commencing with Section 300 whichever is applicable of the California Code of Regulations)
- D Costs of the Contractor or subcontractor for administrative/court review are not reimbursable

ARTICLE III DEPARTMENT CONTACT

- A The name of the Department's contact to request revisions, waivers, or modifications affecting this Agreement, will be provided by the State to the Contractor upon full execution of this Agreement
- B The Contractor shall present the name of its contact for this Agreement to the Department. The Contractor shall immediately notify the State in writing of any change of its contact or address

ARTICLE IV. REPORTS

- A The Contractor shall be required to submit monthly progress reports throughout the contract period in a format as required by the State. The first progress report will be due no later than March 15th and on the 15th of each month thereafter.
- B The final report is due at the end of the contract period and shall include a comprehensive description of what has been accomplished to date and specify a complete description of future plans for the project
- C. Other reports may be due in accordance with the Contractor's Proposal and Exhibit A Scope of Work

Copyrights and Rights in Data – Exhibit F

COPYRIGHTS AND RIGHTS IN DATA

ARTICLE I. COPYRIGHT AND OWNERSHIP OF MATERIALS

A. Contractor and CDA agree that CDA will be the owner of all rights title and interest in but not limited to the copyright to any and all Works created produced or developed under this agreement whether published or unpublished Contractor also agrees that the copyright to any and all Works under this agreement whether published or unpublished, belongs to CDA from the moment of creation.

B. Definition of "Works"

All literary works writings and printed matter including the medium by which it is recorded or reproduced photographs, art work pictorial and graphic representations and works of a similar nature, motion pictures and other audiovisual works sound recordings tapes educational materials original computer programs (including executable computer programs and supporting data in any form), data files data bases and database systems and the selection arrangement and organization thereof), interactive videos information created for an intra/internet site and any other materials or products created produced, conceptualized and fixed in a tangible medium of expression, developed and/or delivered and paid for as a result of this agreement (whether or not copyrighted or copyrightable). It includes preliminary and final products and any materials and information developed for the purpose of producing those final products

Works does not include articles submitted to peer reviewed or reference journals or independent research projects identified in the provision entitled Use of Reports/Data for Independent Research .

C. CDA shall retain ownership of the original and all copies of the Work and the medium such as original work and negatives, print ready art or copy computer diskettes, etc. Contractor shall make delivery of the original and copies within thirty (30) working days of request by CDA or at agreement termination or expiration or fiscal year end. Contractor may retain copies of the Work on file for audit purposes and for purposes identified in the provision entitled **"License and Derivative Works"**.

D CDA retains all rights to use, reproduce distribute or display any Works created produced or developed under this agreement and any derivative works based on these Works, as well as all other rights privileges and remedies granted or reserved to a copyright owner under statutory and common law copyright law

Copyrights and Rights in Data – Exhibit F

- E. Contractor agrees to and does hereby grant to CDA as permitted in California Civil Code, Section 982, ownership in any original Work of authorship created produced developed or delivered under this agreement that is not fixed in any tangible medium of expression
- F. If for any reason, CDA is not deemed to be the owner of all rights title and interest in the Works created produced or developed under this agreement then Contractor hereby assigns all such rights to CDA.
- G For any product, data or material (except for data that is publicly available without restriction, that is collected, created and fixed in a tangible medium of expression) which is created, produced developed delivered and paid for under this agreement which is not deemed a Work , the Contractor shall grant CDA a royalty-free, non-exclusive and irrevocable license throughout the world to reproduce to prepare derivative works to distribute copies, to perform to display or otherwise use, duplicate or dispose of such product, data or material in any manner for governmental purposes and to have or permit others to do so.
- H Subject to the terms conditions and limitations in this agreement and subject to the performance of all terms and conditions stated in this agreement CDA grants to the Contractor a non-exclusive, irrevocable, royalty-free license throughout the world to use, duplicate, distribute and permit other to use the Works created produced or developed under this agreement for the purpose of carrying out the terms and conditions of this agreement and for non-commercial research and educational purposes subject to any limitations set forth in this agreement.
- I For Works requiring the use of other copyright holders materials Contractor shall furnish the names and addresses of all copyright holder(s) or their agent(s) if any and the terms of any license(s) or usage granted, at the time of delivery of the Work(s) Licensed products including software must be products that CDA can access and use. No licensed materials or materials of other copyright holders shall be used for the purpose of carrying out the terms and conditions of this agreement without prior written permission of CDA and the holder of the copyright.
- J. Contractor also agrees that if Contractor enters into any agreements with other parties in order to perform the work required under this agreement, Contractor will require the agreements to include clauses granting CDA a copyright interest in any Works created produced developed or delivered under such agreements and ownership of any Works not fixed in any tangible medium of expression In addition, Contractor will require the other parties to assign those rights to CDA in a format to be provided by CDA and consistent with this agreement For any Works for which copyright is not granted to CDA or for which the Contractor failed to obtain copyright for CDA Contractor shall obtain for CDA at Contractor s expense a royalty-free non-exclusive and irrevocable license

Copyrights and Rights in Data – Exhibit F

throughout the world to reproduce, to distribute copies to perform to display or otherwise use, duplicate or dispose of such Works and to prepare derivative Works in any manner for government purposes and to have or permit others to do so. Contractor may replace an infringing element with a comparable element that is noninfringing or does not violate the rights or interest of any person or entity with CDA's written permission.

- K. If after the completion and acceptance of the Work(s), CDA becomes aware that the Work(s) cannot be used because it would infringe upon the copyright, literary dramatic, statutory or common law rights trademarks or interests or the rights of privacy or constitute libel or slander against a third party the Contractor shall provide the following as determined by CDA and at CDA's sole option.
- 1 Procure for CDA a license as set forth in provision 6 above to use that element of the Work(s) if available at a reasonable expense or
 - 2 Replace that element with the comparable element that is non-infringing or does not violate the rights or interest of any person or entity or
 - 3 Modify that element so it becomes non-infringing or does not violate the rights or interest of any person or entity or
 - 4 Remove any element that constitutes a libel or slander of any person or entity

Contractor makes no representation that it will maintain the capability to provide the remedies set forth in 1) through 4) above if the capability is dependent on maintaining the original computer software or hardware used to develop the element

- L. All Work(s) distributed under the terms of this agreement and any reproductions or visual works or text of such Work(s) shall include a notice of copyright in a place that can be visually perceived either directly or with the aid of a machine or device This notice should be placed prominently on the Work(s) and set apart from other matter on the page or medium where it appears Audio productions shall contain an audio notice of copyright
- M Contractor agrees it has not knowingly granted and it shall not knowingly grant to any person or entity any right that would or might derogate, encumber or interfere with any of the rights granted to CDA in this agreement

ARTICLE II USE OF REPORTS/DATA

- A. CDA shall own all Works as defined in paragraph 2 of the provision entitled **"Copyright and Ownership of Materials"**

Copyrights and Rights in Data – Exhibit F

B Except as provided in the provision entitled **Use of Reports / Data For Independent Research**” use of data provided by CDA or collected and prepared under this agreement by the Contractor is subject to the following conditions for work performed under this agreement

1. All data/research reports or publications shall contain:
 - a A disclaimer that credit any analysis, interpretations or conclusions reached to the author(s) and not to CDA and
 - b A statement on the biases in the data known to affect the report findings.
2. All public reports or publications shall be submitted to CDA’s designated Contract Manager for review, written comment and approval by CDA at least thirty (30) calendar days before the release of said public report or submission for publication or reproduction.

All of the comments will be incorporated insofar as possible, and the Contract Manager shall be informed of any comments that cannot be incorporated and why so that any differences can be discussed and resolved before publication. Additionally the CDA review may include a determination that the technical descriptions of the data are consistent with those provided by CDA and that all confidential information has been deleted or scrambled. Contractor shall delete or scramble all confidential information as required by CDA

The right to publish the public report or publication using the publication credit set forth in the provision entitled **“Publication Credit”**, solely belongs to CDA

3. CDA or the federal government shall have the right to order at any time during the performance of this agreement or within two years from either acceptance of all items (other than data) to be delivered under this agreement or termination of this agreement whichever is later, any Work and any data not called for in the schedule of this agreement but generated in performance of this agreement. The Contractor shall promptly prepare and deliver such data as is ordered for actual costs of reproduction plus 10% overhead. If the principal investigator is no longer associated with the Contractor the Contractor shall exercise its best efforts to prepare and deliver such data as is ordered. The Contractor shall be relieved of obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of two years from the date the Contractor accepts such items

Copyrights and Rights in Data – Exhibit F

When data other than the Work as defined in paragraph 2 of the provision entitled **“Copyright and Ownership of Materials”** is delivered pursuant to this provision payment shall be made, by equitable adjustment or otherwise for converting the data into the prescribed form reproducing it or preparing it for delivery. The terms of such payment shall be agreed upon in writing by the Contractor and CDA and/or the federal government whichever ordered the production of the data

- 4 Except for data publicly available without restriction Contractor must obtain permission from CDA to release to other parties data or databases provided by CDA or collected or prepared under this agreement

The Contractor shall report to CDA any data publicly available without restriction provided to other parties thirty (30) days before the release of that data

5. Publication credit to CDA must be given pursuant to the provision entitled **“Publication Credit”**.

ARTICLE III. LICENSE AND DERIVATIVE WORKS

Contractor shall have a royalty-free non-exclusive right to use reproduce and disseminate ‘Works’ that are delivered under this agreement and approved as satisfactory by CDA and to create derivative works and use said Work(s) in independent research projects subject to the limitations contained in the paragraph entitled **“Use of Reports / Data For Independent Research”** for non-commercial research and educational purposes only.

ARTICLE IV. USE OF REPORTS/DATA FOR INDEPENDENT RESEARCH

- A Independent research projects is defined as research articles, reports and materials produced by Contractor and Contractor’s faculty students or staff using data provided by the State or collected or prepared under this agreement not in performance of this agreement, during time not invoiced to or paid for under this agreement and not necessary for performance of this agreement
- B Contractor shall request prior written permission form CDA to use confidential information in data from state databases or collected or prepared under this agreement according to the requirements of the source database or the appropriate human subject review board

Confidential information’ means any information containing patient identifiers, including but not limited to name address telephone number social security number medical identification number driver’s license number

Copyrights and Rights in Data – Exhibit F

- C All data/research or publications shall contain
- 1 A disclaimer that credit any analysis interpretations or conclusions reached to the author(s) and not to CDA and
 2. A statement on the biases in the data known to affect the report findings
- Independent research projects shall not contain the publication credit appearing in the provision entitled “**Publication Credit**”.
- D For independent research project articles, reports or materials intended for publication, Contractor shall supply CDA with a copy of the final product three weeks prior to the publication date and a copy of the final publication Neither CDA nor the Contractor shall release the article, reports or materials or comment publicly prior to their scheduled release
- E Except for data files, databases or database systems publicly available without restriction, Contractor must obtain written permission from CDA to release to other parties data files databases or database systems provided by the State or collected or prepared under this agreement The Contractor shall report to the CDA any data files databases, or database systems publicly available without restriction provided to other parties thirty (30) days before the release of the data files databases or database systems.

ARTICLE V PUBLICATION CREDIT

- A. Deliverable public reports or publications findings data materials and any Work developed pursuant to this agreement shall acknowledge the financial support of State funds and shall include a statement on the title page giving credit for such support, such as:

This project was supported by funds received from the State of California Department of Aging Long Term Care Innovation Grant Program

- B. In addition to the requirements contained in the provision entitled “**Use of Reports / Data**”, a publication credit statement must also be included on any deliverable curriculum educational materials programs program documentation manual book, pamphlet, conference brochure film videotapes and/or other audiovisual materials (Works) etc. resulting from this agreement

ARTICLE VI RIGHTS IN DATA

Notwithstanding any other provision of this agreement or its Exhibits Contractor understands and agrees that the provision entitled “**Copyright and Ownership of Materials**” governs all ownership right to data files databases or database systems