

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO
AND
EL CONCILIO OF SAN MATEO COUNTY**

THIS AGREEMENT, entered into this _____ day of _____, 20_____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and El
Concilio of San Mateo County, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing Core Services to the residents of San Mateo County.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A—Program/Project Description
- Exhibit B—Method and Rate of Payment
- Exhibit C—Program Monitoring
- Exhibit D—Outcome Based Management (OBM) Initiative
- Attachment I—§504 Compliance
- Attachment II—Health Insurance Portability and Accountability Act (HIPAA)
- Attachment III— Contractor’s Declaration Form

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit “B,” Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit “A.”

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed One Hundred Thirty Thousand Four Hundred Sixteen Dollars, (\$130,416).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2007 through June 30, 2010.

This Agreement may be terminated by Contractor, the Director of the Human Services Agency or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the

Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- | | |
|---|-------------|
| (a) Comprehensive General Liability | \$1,000,000 |
| (b) Motor Vehicle Liability Insurance | \$1,000,000 |
| (c) Professional Liability | \$1,000,000 |

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment “I,” which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor’s equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;

- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.
- G. *Compliance with Contractor Employee Jury Service Ordinance.* Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

12. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Controlling Law

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

County of San Mateo Human Services Agency
Tish Birkby, Analyst
262 Harbor Boulevard, Building A
Belmont, CA 94002

In the case of Contractor, to:

El Concilio of San Mateo County
Ortensia Lopez, Executive Director
1419 Burlingame Avenue, Suite N
Burlingame, CA 94010

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Rose Jacobs Gibson, President,
Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

El Concilio of San Mateo County
Ortensia Lopez, Executive Director
1419 Burlingame Avenue, Suite N
Burlingame, CA 94010

Contractor's Signature

Date: _____

Exhibit A
Program/Project Description

El Concilio of San Mateo County
Core Services 2007- 2010

In consideration of payments provided for in this Agreement, Contractor shall, under the general direction of the Director of Human Services Agency, or her authorized representatives, provide services as described below:

The funding provided through this Agreement represents 33% of the contractor's overall operational expenses for the provision of the following services.

1. CLIENTS TO BE SERVED: Low-income families, single parents, seniors, disabled and individuals needing assistance in meeting basic human needs relating to housing, food, shelter, clothing, financial support, energy assistance, advocacy, case management counseling, and follow-up. Low-income families and individuals needing help in assessing appropriate resources to meet their needs including education, employment, health, child care and legal assistance. Services will be provided in English and Spanish.

2. CLIENT SERVICES: Contractor will provide safety net services to 1500 unduplicated individuals and families per year for the term of this Agreement in the following service areas. On a quarterly basis Contractor will report the actual number of unduplicated individuals provided services in the following categories: Emergency Material Assistance, Emergency Shelter Services, and Case Management to provide those services. Definitions for and additional information regarding each category set forth below are located in the Core Services Procedure Manual, Section 15 Glossary, page 318. Contractor and County agree that the definitions set forth in the Glossary of the Core Services Manual are incorporated by reference as it is fully set forth in this Agreement. The Contractor will provide the following services, supporting activities and related information from July 1, 2007 through June 30, 2010.

- A. **Contacts** with residents of the County by phone, walk-in or outreach.
- B. **Comprehensive Needs Assessments.**
- C. **Emergency Material Assistance** (food, clothing, shelter, infant needs and transportation) based on a comprehensive Needs Assessment that identifies need.
- D. **Emergency Shelter Services.**
- E. **Crisis Intervention.**
- F. Provision of technical assistance services including **translation or interpretation services, forms completion and letter writing.**
- G. **Information and Referral** to appropriate social service programs for English and non-English speakers.
- H. **Employment Assistance** including referral to employment or job training programs.
- I. **Advocacy Services.**
- J. **Financial Evaluation** for individuals who are applying for contractor's programs and/or screening for other financial aid programs offered to residents of this County.
- K. **Follow-up Services** of case intakes.
- L. **Housing Services** to families through the Season of Sharing Housing Assistance Fund, Housing Industry Fund, and other housing assistance programs.

3. EFFECTS OF SERVICE: Services will allow County residents in crisis to stabilize their situation over the short-term and to receive assistance in working towards long-term solutions to emergency situations.

4. **OUTCOMES:** On a quarterly basis Contractor will collect and report data to County outcomes of various program activities, and will continue to work with the OBM staff to refine outcome measures.

A. Emergency Services For Emergency Assistance including: clothing, food, shelter vouchers and transportation, delivery of the service itself will be the outcome. The estimated outcome for the FY 2007-08 will be 1200 emergency services delivered per year.

B. Homelessness Prevention All Rental Assistance and move-in costs paid will be tracked. A follow-up, six months after the assistance ends, will be completed to determine housing status. Client should be informed of follow-up at time of assistance and three stable contact phone numbers of those likely to know client's whereabouts will be collected. The estimated outcome of the number of eligible households provided rental assistance will be 150 per year of this Agreement and the percentage of known clients still housed after six months will be 75%.

5. **OTHER CONTRACTOR RESPONSIBILITIES**

A. The Contractor will provide a written policy to the Human Services Agency for review, pursuant to which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding the delivery of services.

B. The Contractor agrees to report to the Human Services Agency on a quarterly basis its services and activities under this contract, and to accept appropriately referred clients from the County for its contract services as part of their client base.

C. The Contractor will establish written procedures and provide them to the Human Services Agency for review, to ensure that all Contractor employees, volunteers, consultants, subcontractors, or agents performing services under this Agreement report child abuse or neglect to a child protective agency defined in Penal Code Section 11165(k).

D. The Contractor will provide the Human Services Agency with a current budget which clearly states the total agency budget. In addition, the Contractor will maintain all pertinent records and data collection forms that reflect activities listed in this contract for a period of three (3) years. The Contractor will notify the Human Services Agency timely of any major changes to the agency budget, financial statements or board composition/meeting schedules.

E. Contractor will develop and maintain an agency written policy on confidentiality and will assure that the staff is trained and follows the policy.

F. Contractor will enter client data in the Homeless Management Information System (HMIS/HOPE).

G. Contractor will participate in HOPE (Housing Our People Effectively) activities as mutually agreed upon. HOPE is a ten-year action plan that brings

together the business, nonprofit, and public sector communities to address the challenging issue of homelessness at its core, rather than manage it at the margins.

6. **SERVICE INTEGRATION:** Contractor and a designated Human Services Agency representative will coordinate service delivery so that clients receive timely and accurate services. Contractor will coordinate training to insure that its staff is knowledgeable and up to date on the services provided by Human Services Agency, other community agencies and the current needs experienced in the community.
7. **WORKING RELATIONSHIP:** Contractor will participate in decision-making on issues that impact Contractor's obligations under this Agreement. Contractor has final say on Contractor issues not related to state regulations. Human Services Agency (HSA) encourages communication between HSA and Contractor staff. Contractor will meet Quarterly with the HSA Regional Program Manager. Additionally, Contractor will participate in regular meetings with HSA-designated staff to monitor Contractor's progress.
8. **CONFLICT RESOLUTION:** Contractor and the Human Services Agency will meet on a regular basis to identify areas of potential disagreement and develop ways to address the issues.
 - A. **Intake** Contractor shall use as its standard form for intake the Initial Inquiry Form. After addressing any emergency needs, if Contractor identifies a client as being eligible for TANF or other HSA services, that client will be referred to HSA staff for further assistance. If further Core services are needed, HSA staff will refer the client back to Contractor. If the client is not eligible for HSA services, then the client remains with Contractor for services.
 - B. **Education and Training** Contractor's staff will participate in training provided by HSA as necessary to improve coordination and delivery of services
 - C. **Family Self-Sufficiency Teams (FSST)** Contractor will continue to participate in the FSST. Contractor's staff may be primary case managers for FSST cases, when they have the requisite training and experience.
 - D. **Release of information.** A signed client consent to services and release of information between the Contractor and the Human Services Agency will be obtained. Feedback on referrals will be timely.
 - E. **Evaluation:** HSA and Contractor, with the assistance of an HSA Planning and Evaluation Specialist, will develop appropriate measures to assess the outcome of services.

Exhibit B
Method and Rate of Payment

EI Concilio of San Mateo County
Core Services 2007- 2010

In full consideration of the services provided by the Contractor pursuant to this Agreement, the County shall pay the Contractor a quarterly amount not to exceed \$32,604 upon receipt and approval of invoices. The Contractor shall submit invoices within 30 days of the end of the service quarter, and the County shall pay the invoices within 20 working days following receipt of invoice and required reports as shown below. In any event the total amount of the Agreement for FY 2007-08 shall not exceed \$130,416, which includes a 3% Cost of Business Increase (COBI).

Payment for the following years will be based on availability of funds and approval of this Agreement. Funding for future years will be negotiated and in the form of an Amendment to the Agreement.

County may terminate this Agreement or a portion of the services referred to in Exhibit A, based upon availability of federal, state, or County funds by providing a thirty (30) day written notice to Contractor. The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable.

All Quarterly Reports and Invoices are to be submitted to the HSA Regional Program Manager, Ellen Bucci –2415 University Avenue – East Palo Alto, CA 94303. Ellen Bucci can be reached by Fax (650) 325-5237 or Phone (650) 363-4185. Invoices will not be paid without Quarterly Reports. Copies of Quarterly Reports are to be sent to Tish Birkby – 262 Harbor Blvd – Belmont, CA 94002. Phone (650) 802-7656.

Required Reports to process invoices:

Quarterly Reports must contain the following information:
<ul style="list-style-type: none">• Client services delivered• Documentation of successfully funded commitments of new or increased revenues for the Fiscal Year 2007-2010

**Exhibit C
Program Monitoring**

**El Concilio of San Mateo County
Core Services 2007- 2010**

Contractor will provide to County on demand, all requested income and demographic data about the recipients of services under this Agreement. This data may include race, family size, income, sex and disabled status, if any, of the head of household.

Contractor will participate in regular meetings with HSA-designated staff to develop and monitor Contractor's progress by providing to HSA monthly financial statements and other required information.

Contractor will provide County with an Annual Audit Report. The Audit report must include a statement of compliance with OMB Circular A -133 "Audits of States", Local Governments and Non-Profit Organizations".

Exhibit D
Outcome Based Management Initiative

El Concilio of San Mateo County
Core Services 2007- 2010

Responsibilities Relating to the County's OBM Initiative:

Contractor Responsibilities

Contractor will engage in activities and supply information required to implement the County's Outcome-Based Management and Budgeting (OBM) initiative. Activities include, but are not limited to:

- Attending planning and informational meetings;
- Developing program performance and outcome measurements;
- Collecting and submitting data necessary to fulfill measurement requirements;
- Participating in technical assistance and training events offered by the Human Services Agency and seeking technical assistance and training necessary to fulfill measurement requirements;
- Participating in a review of performance and outcome information; and
- Complying with OBM Implementation Guidelines as specified in memos released by the Human Services Agency.
- Contractor will participate in HOPE (Housing Our People Effectively) activities as mutually agreed upon. HOPE is a ten-year action plan that brings together the business, nonprofit, and public sector communities to address the challenging issue of homelessness at its core, rather than manage it at the margins.

Human Services Agency Responsibilities

County, through the Human Services Agency, will

- Provide technical assistance and support to assist Contractor's implementation of the County's Outcome-Based Management and Budgeting (OBM) initiative;
- Issue and review OBM Implementation Guidelines; and
- Conduct review of performance and outcome information.

ATTACHMENT I
Assurance of Compliance with Section §504
of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor (s)" hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor (s) gives/give this assurance in consideration of and for the purpose of obtaining contracts after the date of this assurance. The Contractor (s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor (s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

- The Contractor(s): (Check a or b)
- a. Employs fewer than 15 persons
 - b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person (s) to coordinate its efforts to comply with the DHHS regulations.

Name of 504 Person - Type or Print

El Concilio of San Mateo County
1419 Burlingame Avenue, Suite N
Burlingame, CA 94010

Name of Contractor(s) – type or Print

I certify that the above information is complete and correct to the best of my knowledge.

Date

Signature and Title of
Authorized Official

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations)...other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

Attachment II
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set.* “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.
- b. *Electronic Protected Health Information.* “Electronic Protected Health Information” (“EPHI”) means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual.* “Individual” shall have the same meaning as the term “individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 164.501 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law.* “Required by law” shall have the same meaning as the term “required by law” in Section 164.501.
- g. *Secretary.* “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident.* “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule.* “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.

- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County, or at the request of the County to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protection Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

**Attachment III
County of San Mateo
Contractor's Declaration Form**

I. CONTRACTOR INFORMATION

Contractor Name:	El Concilio of San Mateo County	Phone:	(650) 373-1087
Contact Person:	Ortensia Lopez, Executive Director	Fax:	(650)373-1090
Address:	1798 – B Bay Road East Palo Alto, CA 94303		

II. EQUAL BENEFITS (check one or more boxes)

Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.

- Contractor complies with the County's Equal Benefits Ordinance by:
 - offering equal benefits to employees with spouses and employees with domestic partners.
 - offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- Contractor does not comply with the County's Equal Benefits Ordinance.
- Contractor is exempt from this requirement because:
 - Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to offer equal benefits when said agreement expires.

III. NON-DISCRIMINATION (check appropriate box)

- Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

IV. EMPLOYEE JURY SERVICE (check one or more boxes)

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- Contractor complies with the County's Employee Jury Service Ordinance.
- Contractor does not comply with the County's Employee Jury Service Ordinance.
- Contractor is exempt from this requirement because:
 - the contract is for \$100,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to comply when the collective bargaining agreement expires.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name

Date

Title