

**2010-2011 FISCAL AGENT AGREEMENT
BETWEEN THE REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO
AND THE COUNTY OF SAN MATEO
FOR FUNDS UNDER THE
HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM**

This Fiscal Agent Agreement ("Agreement") is made and entered into as of July 1, 2010 by and between the Redevelopment Agency of the City and County of San Francisco ("Redevelopment Agency"), a public body, corporate and politic, and the County of San Mateo ("Contractor").

RECITALS

A. The National Affordable Housing Act (Public Law 101-625, approved November 28, 1990, hereinafter referred to as the "Act") authorized the Housing Opportunities for Persons With AIDS Program ("HOPWA") to provide states and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with Acquired Immune Deficiency Syndrome ("AIDS") and related diseases.

B. The Act authorized entitlement grants under the HOPWA Program for the San Francisco Eligible Metropolitan Statistical Area ("EMSA") with Marin, San Francisco, and San Mateo Counties comprising the San Francisco EMSA.

C. The Community Development Block Grant communities in the San Francisco EMSA were required to designate a single unit of general local government to administer the HOPWA Program on behalf of the EMSA, and the City and County of San Francisco was so designated, and the Mayor's Office of the City and County of San Francisco designated the Redevelopment Agency as the lead agency of the EMSA.

D. The Mayor's Office of Community Investment submitted the Citywide Action Plan to the U.S. Department of Housing and Urban Development ("HUD"), which included the requests for entitlement grants under HOPWA funding (in collaboration with Marin and San Mateo Counties) on May (TBD), 2010.

E. On June 16, 2009, the Agency Commission approved a 2009-2010 Fiscal Agent Agreement ("Agreement") with the County of San Mateo for a total aggregate amount of \$779,300 in HOPWA funding for the twelve-month agreement term beginning July 1, 2009 and ending June 30, 2010, to be used for short-term rental and mortgage assistance, supportive services, and project sponsor and grantee administrative expenses. Any remaining funds were to be retained by the Redevelopment Agency at the end of Agreement term on June 30, 2010.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The County of San Mateo shall provide for the delivery of services to low-income individuals and households with HIV/AIDS, as set forth in Exhibit A, by this reference made a part hereof.
2. The Redevelopment Agency, pursuant to the HOPWA allocation as approved by HUD, and subject to final HUD appropriation, has allocated to the County of San Mateo a total of \$871,100 in 2010-2011 fiscal year funds to be expended as described in this Agreement. Unless an amendment to this Agreement otherwise provides, that amount shall in no event be exceeded and the Redevelopment Agency shall under no circumstances be required to pay in excess of that amount. Payment shall be made pursuant to the terms and conditions set forth in Exhibit B attached hereto and by this reference made a part hereof. Sums not so paid shall be retained by the Redevelopment Agency.
3. The term of this twelve-month Agreement begins on the first day of July 2010 and ends on the thirtieth day of June 2011.
4. All subcontracts for services to be provided pursuant to this Agreement will be submitted to the Redevelopment Agency by September 30, 2010. Failure to comply may result in disallowance of funds requested at the sole discretion of the Redevelopment Agency.
5. The Redevelopment Agency shall not reimburse for, and the County of San Mateo shall not request reimbursement for, services provided prior to this Agreement that were not subject to executed subcontracts.
6. The County of San Mateo shall maintain on a current basis complete records, including books of original entry, source documents supporting accounting transactions, eligibility and service records as may be applicable, a general ledger, personnel and payroll records, canceled checks, and related documents and records to assure proper accounting of funds and performance of this Agreement in accordance with instructions provided and to be provided by the Redevelopment Agency. Said instructions may include requirements as to the length of time such records are to be retained. County of San Mateo will cooperate with the Redevelopment Agency in the preparation of, and will furnish any and all information required for reports to be prepared by the Redevelopment Agency as may be required by the rules, regulations, or requirements of the Redevelopment Agency or of any other governmental entity. To the extent permitted by law, the Redevelopment Agency will also permit access to all books, accounts, or records of any kind to the County of San Mateo or to any other governmental entity for purposes of audit or investigation, in order to ascertain compliance with the provisions of this Agreement.
7. County of San Mateo shall maintain, at all times during the term of this Agreement, the insurance and bonding described in Exhibit C to this Agreement, and shall comply with all requirements set forth in that Exhibit.

8. County of San Mateo shall indemnify the Redevelopment Agency, its officers, and employees, against any and all liability for injury or damage caused by any act or omission of County of San Mateo or any of County of San Mateo's employees or volunteers in the performance of this Agreement, and County of San Mateo shall hold the Redevelopment Agency harmless from any and all loss occasioned in the performance of, or otherwise arising out of, this Agreement, except those arising by reason of willful misconduct or gross negligence of the Redevelopment Agency, its officers, employees, or agents.

9. The Redevelopment Agency shall indemnify the County of San Mateo, its officers, and employees, against any and all liability for injury or damage caused by any act or omission of Redevelopment Agency or any of the Redevelopment Agency's employees or volunteers in the performance of this Agreement, and the Redevelopment Agency shall hold the County of San Mateo harmless from any and all loss occasioned in the performance of, or otherwise arising out of, this Agreement, except those arising by reason of the willful misconduct or gross negligence of the County of San Mateo, its officers, employees, or agents.

10. County of San Mateo shall not claim reimbursement from the Redevelopment Agency for or apply sums received from the Redevelopment Agency with respect to that portion of its obligations which has been paid by another source of revenue.

11. None of the work to be performed by County of San Mateo shall be subcontracted without the prior written consent of the Redevelopment Agency. County of San Mateo shall be as fully responsible to the Redevelopment Agency for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by them, as County of San Mateo is for the acts and omissions of persons directly employed by it. County of San Mateo shall not transfer any interest in this Agreement (whether by assignment or novation) without the prior written approval of the Redevelopment Agency. No party shall, on the basis of this Agreement, in any way contract on behalf of, or in the name of, the other party to the Agreement, and any attempted violation of the provisions of this paragraph shall confer no rights, and shall be void and shall be deemed a default.

12. Relationship of Parties

It is expressly understood that this is an agreement between two (2) independent contractors and that no agency, employee, partnership, joint venture or other relationship is established by this Agreement. The intent by both County of San Mateo and the Redevelopment Agency is to create an independent contractor relationship, which relationship requires the parties to be wholly responsible for the manner in which they perform the terms of this Agreement and to assume exclusively the responsibility for the acts of their employees performed during the course and scope of their employment.

13. County of San Mateo agrees to maintain the confidentiality of any information that may be obtained with this work. The Redevelopment Agency shall respect the confidentiality of information furnished by County of San Mateo to the Redevelopment Agency.

14. If, through any cause, County of San Mateo shall fail to fulfill in timely and proper manners its obligations under this Agreement, or if County of San Mateo shall violate any of the covenants, agreements, or stipulations of this Agreement, the Redevelopment Agency shall thereupon have the right to terminate this Agreement by giving written notice to County of San Mateo of such termination and specifying the effective date of such termination. Without prejudice to the foregoing, County of San Mateo agrees that if prior to the termination or expiration of this Agreement, upon any final or interim audit by the Redevelopment Agency, that County of San Mateo shall forthwith bring itself into compliance and shall pay to the Redevelopment Agency forthwith whatever sums are so disclosed to be due to the Redevelopment Agency (or shall, at the Redevelopment Agency's election, permit the Redevelopment Agency to deduct such sums from whatever amounts remain undisbursed by the Redevelopment Agency to County of San Mateo pursuant to this Agreement); if this Agreement shall have terminated or expired, and it shall be disclosed upon such audit, or otherwise, that such failure shall have occurred, the County of San Mateo shall pay to the Redevelopment Agency forthwith whatever sums are so disclosed to, or determined by, the Redevelopment Agency to be due to the Redevelopment Agency, or shall, at the Redevelopment Agency's election, permit the Redevelopment Agency to deduct such sums from whatever amounts remain undistributed by the Redevelopment Agency to County of San Mateo. Notwithstanding anything in this or any other agreement between the Redevelopment Agency and County of San Mateo, the Redevelopment Agency shall have the right to terminate this Agreement with cause at any time upon giving at least thirty (30) days written notice prior to the effective date of such termination.

15. County of San Mateo shall comply with all applicable laws, ordinances and codes of Federal, State and local governments in performing any of the work covered by this Agreement.

16. County of San Mateo shall retain any property acquired with funds under this Agreement as long as there is a need for the property to accomplish the purpose of the program whether or not the program continues to be supported by the Redevelopment Agency/HOPWA funds. For disposition of property having a useful life of more than one year and an acquisition cost of \$500 or more per unit, County of San Mateo shall request disposition instructions from the Redevelopment Agency. All personal property acquired with funds pursuant to this Agreement shall be acquired in compliance with Office of Management and Budget Circular A-110, Attachment A - Property Standards.

17. The Redevelopment Agency has assigned the Deputy Executive Director of the Housing Division as the officer in charge with respect to the performance of this Agreement. If any adjustment in line items in the budget, which is part of Exhibit A of this Agreement, is requested by the County of San Mateo, such adjustment may be made upon receipt by County of San Mateo of the written approval of the Director. Such budget adjustment shall not alter (1) the basic scope of services or other performance to be provided under this Agreement, (2) the time of performance of any act hereunder, or (3) the total amount of money allocated hereunder.

18. County of San Mateo agrees that in the event HUD or any other federal agency orders the return of funds granted to the EMSA under the HOPWA program, County of San Mateo will

return to the EMSA such funds as are required to comply with the directive from HUD or other federal agency.

19. County of San Mateo shall identify funding priorities, select project sponsors to carry out eligible activities, prepare subcontracts with project sponsors, provide the Redevelopment Agency with information necessary for HUD to perform any required environmental review, operate the program in accordance with the requirements of the applicable HUD regulations, including, but not limited to, Circulars A-110, A-122, and A-133, conduct an ongoing assessment of the housing assistance and supportive services required by the participants of the program, assure the adequate provision of supportive services to the participants in the program, and comply with all regulations, requirements and procedures including recordkeeping and reports for program monitoring and evaluation purposes, as HUD may establish for purposes of carrying out the program in an effective and efficient manner, including but not limited to the HOPWA regulations at 24 C.F.R. Part 574.

20. County of San Mateo agrees that no person in the United States shall, on the grounds of race, color, religion, national origin or ancestry, gender identity, sex, marital or domestic partner status, disability (including AIDS or HIV status), age or sexual orientation, in the performance of this Agreement be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available to County of San Mateo by the Redevelopment Agency pursuant to this Agreement.

21. The County of San Mateo shall submit all claims for reimbursement under this Agreement within sixty (60) days after the ending date of the Agreement. All claims submitted after sixty (60) days following the ending date of this Agreement may not be approved for reimbursement by the Redevelopment Agency. Any "obligations incurred" included in claims for reimbursements and paid by the Redevelopment Agency which remain unpaid by the County of San Mateo after sixty (60) days following the ending date of the Agreement will be disallowed under audit by the Redevelopment Agency.

22. This Agreement can be amended only by written agreement of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

REDEVELOPMENT AGENCY OF
THE CITY AND COUNTY
OF SAN FRANCISCO, A PUBLIC
BODY, CORPORATE AND POLITIC

COUNTY OF SAN MATEO

By _____
Amy Lee, Deputy Executive Director,
Finance and Administration

By _____
President, Board of Supervisors

Date

Date

APPROVED AS TO FORM:

CLERK OF THE BOARD OF
SUPERVISORS AND COUNTY
ADMINISTRATOR

By _____
James B. Morales
Agency General Counsel

By _____

Date

Date

Authorized by Resolution No. 75-2010,
Adopted: June 15, 2010

EXHIBIT A

A. Rental Assistance Program

1. Housing Assistance Program Scattered Sites in San Mateo County	200 very low-income persons living with HIV/AIDS will be assisted with short-term housing subsidies for the purpose of providing decent affordable housing.	\$270,122
2. Housing Assistance Services 2686 Spring Street, Redwood City	200 very low-income persons living with HIV/AIDS will be assisted with pre- and post-placement housing advocacy services for the purpose of obtaining and maintaining decent affordable housing.	\$279,325
3. Housing Assistance Services 2686 Spring Street, Redwood City	21 very low income persons living with HIV/AIDS will be provided with HUD-defined move-in costs (e.g. deposits)	\$40,000
Subtotal		\$589,447

B. Supportive Services

1. Case Management: San Mateo Co. STD/HIV Program 225 37th Avenue, San Mateo	150 very low-income persons living with HIV/AIDS will have access to comprehensive case management and community based services for the purpose of creating suitable living environments and avoiding homelessness.	\$110,541
2. Benefits Counseling: San Mateo Co. STD/HIV Program 225 37th Avenue, San Mateo	250 very low-income persons living with HIV/AIDS will have access to benefits counseling services for the purpose of creating suitable living environments.	\$89,701
Subtotal		\$200,242

C. Project Sponsor Administrative Expenses (Limited to 7% of awarded funds)

1. Mental Health Association of San Mateo 2686 Spring Street, Redwood City	Sponsor of Housing Assistance Program and related Supportive Services.	\$41,261
2. San Mateo Co. STD/HIV Program 225 37th Avenue, San Mateo	Sponsor of case management and benefits counseling program.	\$14,017
Subtotal		\$55,278

D. Grantee Administrative Expenses

San Mateo Co. STD/HIV Program 225 37 th Avenue, San Mateo	Grantees are limited to 3% of awarded funds for administration costs.	\$26,133
Subtotal		\$26,133

Total – San Mateo County **\$871,100**

EXHIBIT B

TERMS AND CONDITIONS FOR PAYMENT

1. The County of San Mateo shall provide to the Redevelopment Agency quarterly invoices for services provided pursuant to this Agreement, no later than forty-five (45) days after the end of each of the first three quarters. For the final quarter, the County of San Mateo shall provide an invoice no later than sixty (60) days after the end of the contract term. The invoices shall reflect the services provided during the preceding quarter, using an invoice format acceptable to the Redevelopment Agency.
2. The Redevelopment Agency shall remit payment to County of San Mateo within fifteen (15) working days of receipt of each complete invoice.

EXHIBIT C
INSURANCE REQUIREMENTS

I. INSURANCE

Contractor shall procure and maintain for the duration of the contract, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors.

- 1.1. **Minimum Scope of Insurance.** Coverage shall be at least as broad as:
 - 1.1.1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
 - 1.1.2. Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01- any auto).
 - 1.1.3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- 1.2. **Minimum Limits of Insurance.** Contractor shall maintain limits no less than:
 - 1.2.1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - 1.2.2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
 - 1.2.3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease.
- 1.3. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents and employees; or

Contractor shall provide a financial guarantee satisfactory to the Agency guaranteeing payment of losses and related investigations, claims administration and defense expenses.

- 1.4. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:
 - 1.4.1. The "San Francisco Redevelopment Agency, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" are to be covered as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.
 - 1.4.2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects to the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents, and employees. Any insurance or self-insurance maintained by the Agency, the City and County of San Francisco and their respective Commissioners, members, officers, agents, or employees or shall be excess of Contractor insurance and shall not contribute with it.
 - 1.4.3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents, or employees.
 - 1.4.4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Agency.
- 1.5. Workers' Compensation and Employers' Liability Coverage. Insurer shall agree to waive all rights of subrogation against the "San Francisco Redevelopment Agency, the City and County of San Francisco and their respective members, officers, agents and employees" for losses arising from work performed by Contractor or for the Agency.
- 1.6. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the Agency's Risk Manager.
- 1.7. Verification of Coverage. Contractor shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be

signed by a person authorized by that Insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Agency. All certificates and endorsement are to be received and approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

- 1.8. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein, unless otherwise approved by the Agency's Risk Manager.

The foregoing contained in Exhibit C, notwithstanding, the parties acknowledge that Contractor is a public entity, permissibly self-insured, and the Agency will accept evidence of self-insurance in lieu of insurance requirements cited above.