

**CONTRACT BETWEEN THE COUNTY OF SANTA CLARA AND  
CITY OF SANTA CLARA**

1. This Contract is between the County of Santa Clara (henceforth, COUNTY) and **City Of Santa Clara** (henceforth, CONTRACTOR) for Senior Nutrition Program - COVID-19 Emergency Meals.
2. The parties agree to comply with the General Terms and Conditions contained in Articles I-V of this Contract and provisions contained in Exhibit A: Program Provisions, Exhibit B: Program Plan & Requirements, Exhibit C: Budget, Exhibit D: Logic Model and Exhibit E: Federally Required Contract Provisions which are attached hereto and incorporated herein by this reference and made a part of this Contract.

IN WITNESS WHEREOF, COUNTY and CONTRACTOR hereby agree to the terms of this Contract.

**COUNTY OF SANTA CLARA**

**CONTRACTOR**

\_\_\_\_\_  
Gene Clark, Director of Procurement  
County of Santa Clara

\_\_\_\_\_  
Deanna J. Santana, City Manager  
City of Santa Clara

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

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

**ATTEST:**

\_\_\_\_\_  
Robert Menicocci, Agency Director  
Social Services Agency  
Date: \_\_\_\_\_

\_\_\_\_\_  
Hosam Haggag  
City of Santa Clara  
Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Crick, Chief Fiscal Officer  
Social Services Agency  
Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY**

**APPROVED AS TO FORM**

\_\_\_\_\_  
Michaela Lewis  
Lead Deputy County Counsel

\_\_\_\_\_  
Brian Doyle  
City Attorney

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

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

## Contract General Terms and Conditions

### Article I General Terms

#### 1. ENTIRE CONTRACT

This Contract and its Exhibits/Appendices (if any) constitutes the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Contract. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

#### 2. AMENDMENTS

This Contract may only be amended by written instrument and signed by authorized representatives of all contracting parties.

#### 3. CONFLICTS OF INTEREST

- a. CONTRACTOR shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1093 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the COUNTY.
- b. In accepting this Agreement, CONTRACTOR covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. CONTRACTOR further covenants that, in the performance of this Agreement, it will not employ any CONTRACTOR or person having such an interest. CONTRACTOR, including but not limited to CONTRACTOR's employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.
- c. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, CONTRACTOR shall, upon execution of this Agreement, provide the COUNTY with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to CONTRACTOR's employees, agents and subcontractors, that could be substantively involved in "making a governmental decision" or "serving in a staff capacity and in that

capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position,” (2 CCR 18700.3), as part of CONTRACTOR’s service to the COUNTY under this Agreement. CONTRACTOR shall immediately notify the COUNTY of the names and email addresses of any additional individuals later assigned to provide such service to the COUNTY under this Agreement in such a capacity. CONTRACTOR shall immediately notify the COUNTY of the names of individuals working in such a capacity who, during the course of the Agreement, end their service to the COUNTY.

- d. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, CONTRACTOR shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other laws and regulations listed in subsection (A) including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

4. **GOVERNING LAW, VENUE**

This Contract has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the County of Santa Clara.

5. **ASSIGNMENT**

No assignment of this Contract or of the rights and obligations hereunder shall be valid without the prior written consent of the other party.

6. **WAIVER**

No delay or failure to require performance of any provision of this Contract shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party shall be in writing and shall apply to the specific instance expressly stated.

7. **INDEPENDENT CONTRACTOR STATUS**

CONTRACTOR will perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of COUNTY. None of the provisions of this Contract is intended to create, nor will be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Contract. The parties are not, and will not be construed to be in a relationship of joint venture, partnership, or employer-employee. Neither party has the authority to make any statements, representations, or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided herein. CONTRACTOR is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

8. **SEVERABILITY OF PROVISIONS**

If any provision(s) of this Contract are held invalid, the remainder of this Contract remains in force.

**Article II**  
**Fiscal Accountability and Requirements**

**1. AVAILABILITY AND SUBSTITUTION OF FUNDS**

- e. Notwithstanding any provision herein, this Contract is valid and enforceable only if sufficient funds are available. In the event of reduction, suspension, discontinuance, or other unavailability of funds, COUNTY unilaterally may take appropriate actions including, but not limited to, reducing existing service authorization, immediate termination of the Contract, or reducing the maximum dollar amount of this Contract with no liability occurring to the COUNTY.
- f. If applicable, the COUNTY may substitute State or Federal funds for funds appropriated by the Board of Supervisors for payments to be made pursuant to this Contract. CONTRACTOR will then be bound by the requirements of any State or Federal grant contracts, statutes, regulations, guidelines, or directives associated with the funds.

**2. COMPENSATION TO CONTRACTOR**

Compensation method shall be Fee for Service.

**3. DISALLOWED COSTS**

- g. CONTRACTOR is liable for any funds expended that are not in accordance with this Contract, including, but not limited to, disallowed costs, violation, and/or default of Contract. CONTRACTOR will repay COUNTY disallowed costs, violation and/or default amounts within ninety (90) days of discovery of these costs. This provision survives the termination of this Contract.
- h. If funding under this Contract is from Federal sources, such funds may not be used by CONTRACTOR, either directly or indirectly, as a contribution for the purpose of obtaining any Federal funds under any Federal programs. An indirect use of such funds to match Federal funds is defined as: "the allocation by CONTRACTOR of funds received under this Contract to a non-matching expenditure, thereby releasing or displacing other of its funds for the purpose of matching Federal funds."

**4. FINANCIAL RECORDS**

- a. CONTRACTOR will establish and maintain a system of financial controls and accounting in conformance with Generally Accepted Accounting Principles (GAAP).
- b. CONTRACTOR must maintain accurate and complete financial records of all costs and operating expenses in connection with this Contract including, but not limited to subcontracts, invoices, timecards, cash receipts, vouchers, canceled checks, bank Statements, and other official documentation indicating in proper detail the nature and propriety of all costs incurred, and reimbursed by COUNTY.
- c. The financial records must show that funds received under this Contract are used for purposes consistent with the terms of this Contract.

**Article III**  
**Reporting, Records, Audit, Evaluations, and Termination**

**1. INSPECTION AND AUDIT**

- a. All records, books, reports, and documentation maintained by CONTRACTOR pursuant to this Contract, or related to the CONTRACTOR's activities and expenditures under this Contract, will be open for inspection and audit by Federal, State, and County officials, or their agents, upon demand at reasonable times. Such records must be kept in the State of California for the retention period specified in this Contract. This provision survives the termination of this contract.
- b. CONTRACTOR will provide the Federal, State, or County officials, or their agents' reasonable access, through representatives of CONTRACTOR, to facilities, records, clients, and employees that are used in conjunction with the provision of contract services, except where prohibited by Federal or State laws, regulations or rules.
- c. CONTRACTOR must submit to COUNTY audited financial reports conducted by an independent certified public accountant no later than four (4) months after the end of the last month of the contract term, indicating that reported costs are actual, reasonable, necessary, allowable, and computed in accordance with GAAP and provisions stipulated in this Contract. In addition, the CONTRACTOR must submit any management letters or management advisory letters that apply to the CONTRACTOR's agency audit. COUNTY has the discretion to only require an audit report every two (2) years.
- d. COUNTY may elect to accept an audit report in accordance with GAAP conducted to meet compliance requirements of other funding entities in the event all of the above provisions are met.

**2. REPORTING REQUIREMENTS**

- a. CONTRACTOR must maintain complete and accurate records of its operation, including any and all records required by COUNTY relating to matters covered by this Contract, including, but not limited to, financial records, supporting documents, client statistical records, personnel and all other pertinent records. COUNTY may receive copies of any and all such records upon request.
- b. CONTRACTOR must submit to COUNTY a compensation claim on forms approved by COUNTY Social Services Agency.
- c. CONTRACTOR must assist COUNTY in meeting COUNTY's reporting requirements to the State and other agencies with respect to CONTRACTOR's work hereunder. This cooperation includes assisting COUNTY to prepare evaluations required by the State or Federal governments regarding services provided by CONTRACTOR under this Contract. CONTRACTOR must submit to COUNTY any and all reports that may be required by COUNTY concerning CONTRACTOR's performance under this Contract.

- d. Upon COUNTY's request, CONTRACTOR must provide COUNTY evidence of CONTRACTOR's capacity to perform under this Contract, its compliance with applicable statutes and regulations, and its compliance with the terms and conditions of this Contract.
- e. All records, books, reports and documentation must be retained in the State of California by CONTRACTOR for four (4) years after termination of this Contract; or until all Federal, State and County audits are completed; or until all disputes, litigation, or claims are resolved; whichever is later. All such records, books, reports and documentation must be transmitted to the COUNTY of Santa Clara, Social Services Agency in the event that CONTRACTOR goes out of business during the period in which records are required to be maintained. This provision survives the termination of this contract.
- f. CONTRACTOR must within 30 calendar days advise the COUNTY of 1) the issuance of any legal complaint by an enforcement agency, or any enforcement proceedings by any Federal, State or local agency for alleged violations of Federal, State or local rules, regulations or laws, and/or 2) the issuance of citations, court findings or administrative findings for violations of applicable Federal, State or local rules, regulations or laws.
- g. CONTRACTOR guarantees that it, its employees, contractors, subcontractors or agents are not suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration (<https://www.sam.gov/>). CONTRACTOR must within 30 calendar days advise the COUNTY if it, its employees, contractors, subcontractors or agents become suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration during the term of this Agreement.

**3. RESPONSIBILITY FOR AUDIT EXCEPTIONS**

CONTRACTOR accepts responsibility for receiving, replying to, and complying with any audit exceptions by appropriate Federal, State, or County, audit agencies.

**4. MONITORING AND EVALUATION**

- a. COUNTY's Social Services Agency will monitor the work performed and financial operations conducted under this Contract to determine whether CONTRACTOR's operation conforms to County policy, Federal and State statutes and regulations, and to the terms of this Contract.
- b. COUNTY may conduct participant interviews to determine program compliance.
- c. CONTRACTOR agrees to participate in and cooperate with studies and surveys COUNTY deems necessary to meet its monitoring and evaluation responsibility.
- d. CONTRACTOR must furnish all data, Statements, records, information, and reports necessary for COUNTY to monitor, review, and evaluate the performance of the program and its components. Performance evaluations will examine the following five

factors: 1) fiscal accountability; 2) completion of work within a given time frame; 3) ability and effort to meet the performance criteria; 4) quality of services; and 5) a recommendation for future contracting with the CONTRACTOR.

- e. If, in the course of monitoring and evaluation, COUNTY discovers any practice, procedure or policy of CONTRACTOR that deviates from the terms of this Contract; that violates State or Federal statutes or regulations; that threatens the success of the program carried on pursuant to this Contract, or that jeopardizes the fiscal integrity of said program, COUNTY may impose reasonable funding restrictions upon notice specifying the nature of the restriction(s), reasons for imposition, the corrective action that must be taken before they will be removed, time allowed for completing the corrective action, and method of requesting reconsideration.
- f. CONTRACTOR must respond in writing to any discrepancies, violations, or deficiencies identified by COUNTY within ten (10) days.

**5. CORRECTIVE ACTION PROCEDURE**

- a. Upon receipt by COUNTY of information regarding a failure by CONTRACTOR to comply with any provision of this Contract, COUNTY has the right to forward to CONTRACTOR a notice of COUNTY's intent to consider corrective action to enforce compliance with such provision. Such notice will indicate the nature of the issue, or issues, to be reviewed in determining the need for corrective action. CONTRACTOR may have the opportunity to respond or participate in formulating the corrective action recommendation. COUNTY has the right to require the presence of CONTRACTOR's officer(s) or employee(s) at any hearing or meeting called for the purpose of considering corrective action.
- b. After issuing such notice, and after considering CONTRACTOR's response, if any, COUNTY may forward to CONTRACTOR a set of specific corrective actions recommended and a timetable for implementing the specified corrective actions recommended. Following implementation of the corrective actions, CONTRACTOR will forward to COUNTY, within the time specified by COUNTY, any verification required by COUNTY regarding the corrective actions.
- c. In the event CONTRACTOR does not implement the corrective actions recommended in accordance with the corrective actions timetable, COUNTY may suspend payments hereunder or immediately terminate this Contract without further notice to CONTRACTOR.

**6. TERMINATION**

- a. Termination for Convenience  
COUNTY may, by written notice to CONTRACTOR, terminate all or part of this Agreement at any time for the convenience of the COUNTY. The notice shall specify the effective date and the scope of the termination.
- b. Termination for Cause  
COUNTY may, at any time, elect to suspend or terminate this Contract or withhold payments to CONTRACTOR, in whole or in part, for cause, by giving written notice specifying the effective date and scope of such termination. Cause includes, but is not

limited to the following:

- i. CONTRACTOR failure to comply with any contract provision;
- ii. CONTRACTOR fails to meet the performance criteria of this Contract;
- iii. COUNTY deems CONTRACTOR's performance unsatisfactory.
- iv. Litigation is pending with respect to the CONTRACTOR's performance under this Contract that may jeopardize or adversely affect services;
- v. CONTRACTOR is the subject of a voluntary or involuntary proceeding under the Bankruptcy Act;
- vi. CONTRACTOR submits to COUNTY any reports that are incorrect or incomplete in any material respect, or fails to file timely reports; or,
- vii. CONTRACTOR is suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.

c. Terminations

In the event of any termination, all finished or unfinished documents, data, studies, reports, and materials (Materials) prepared by the CONTRACTOR under this Contract becomes the property of the COUNTY and will be promptly delivered to the COUNTY. Upon termination, the CONTRACTOR may make and retain a copy of such Materials. CONTRACTOR may be compensated based on the completion of services provided, as solely and reasonably determined by COUNTY.

7. NON-EXCLUSIVE REMEDIES

The remedies listed in this Contract are non-exclusive, and COUNTY retains all other rights and remedies it may have under general law, including the right to terminate the Contract immediately without advance notice if CONTRACTOR becomes unable to perform its obligations under this Contract.

**Article IV**

**Statutes, Regulations, and Policies**

1. COMPLIANCE WITH ALL LAWS, INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION

- i. Compliance with All Laws. CONTRACTOR shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- j. Compliance with Non-Discrimination and Equal Opportunity Laws: CONTRACTOR shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act



(Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, CONTRACTOR shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall CONTRACTOR discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

- k. Compliance with Wage and Hour Laws: CONTRACTOR shall comply with all applicable wage and hour Laws, which may include but are not limited to the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local Minimum Wage, Prevailing Wage, or Living Wage laws.
- l. Definitions: For purposes of this Section, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.
- m. Prior Judgments, Decisions or Orders against CONTRACTOR : BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS THAT (A) WERE ISSUED IN THE FIVE YEARS PRIOR TO EXECUTING THIS AGREEMENT BY A COURT, AN INVESTIGATORY GOVERNMENT AGENCY, ARBITER, OR ARBITRATION PANEL AND (B) FOUND THAT CONTRACTOR VIOLATED AN APPLICABLE WAGE AND HOUR LAW OR PAY EQUITY LAW. CONTRACTOR FURTHER AFFIRMS THAT IT HAS SATISFIED AND COMPLIED WITH—OR HAS REACHED AGREEMENT WITH THE COUNTY REGARDING THE MANNER IN WHICH IT WILL SATISFY—ANY SUCH FINAL JUDGMENTS, DECISIONS, DETERMINATIONS, OR ORDERS.

- n. Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract: If at any time during the term of this Agreement, CONTRACTOR receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then CONTRACTOR shall promptly satisfy and comply with any such Final Judgment. CONTRACTOR shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. CONTRACTOR shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.
- o. Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to CONTRACTOR's records, CONTRACTOR shall permit the COUNTY and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the COUNTY's request, CONTRACTOR shall provide the COUNTY with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. COUNTY's access to such records and facilities shall be permitted at any time during CONTRACTOR's normal business hours upon no less than 10 business days' advance notice.
- p. Pay Equity Notification: CONTRACTOR shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to CONTRACTOR for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of any applicable pay equity Laws, or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of CONTRACTOR's Employees and Job Applicants.
- q. Material Breach: Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. COUNTY may, among other things, take any or all of the following actions:
- I. Suspend or terminate any or all parts of this Agreement.
  - II. Withhold payment to CONTRACTOR until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
  - III. Offer CONTRACTOR an opportunity to cure the breach.
- r. Subcontractors: CONTRACTOR shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

- s. CONTRACTOR recognizes the mandatory standards and policies relating to energy efficiency in the State energy conservation plan (Title 24, California Administrative Code).
- t. For Contracts over \$100,000 CONTRACTOR will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S. Code 1857 (h)), Section 508 of the Clean Water Act (33 U.S. Code 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- u. CONTRACTOR must establish procedures assuring that any person's complaints and grievances against CONTRACTOR regarding the delivery of services under this Contract are promptly addressed and fairly resolved.

**2. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS**

CONTRACTOR hereby assigns to the COUNTY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the CONTRACTOR for sale to the COUNTY pursuant to this Contract.

**3. COUNTY NO-SMOKING POLICY**

CONTRACTOR and its employees, agents and subcontractors, shall comply with the COUNTY's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all COUNTY-owned and operated health facilities, (2) within 30 feet surrounding COUNTY-owned buildings and leased buildings where the COUNTY is the sole occupant, and (3) in all COUNTY vehicles.

**4. FOOD AND BEVERAGE STANDARDS**

- v. Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by CONTRACTOR with COUNTY funds for COUNTY-sponsored meetings or events.
- w. If food is to be provided, healthier food options must be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, CONTRACTOR shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the CONTRACTOR should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

- x. If beverages are to be provided, beverages that meet the COUNTY's nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided.

5. **CONTRACTING PRINCIPLES**

CONTRACTOR agrees to comply with the COUNTY's Contracting Principles set forth in the Board Policy Manual. The Contracting Principles require, among other things, that CONTRACTOR be a fiscally responsible entity and treat its employees fairly. CONTRACTOR is also required to (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the COUNTY copies of any financial audits that have been completed during the term of the contract; and (4) upon the COUNTY's request, provide the COUNTY reasonable access, through representatives of the CONTRACTOR, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules. Refer to:

[https://www.sccgov.org/sites/scc/Documents/Type\\_I\\_&\\_Type\\_II\\_Contractors.pdf](https://www.sccgov.org/sites/scc/Documents/Type_I_&_Type_II_Contractors.pdf)

6. **THIRD PARTY BENEFICIARIES**

This agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties.

7. **MAINTENANCE OF SOFTWARE**

If CONTRACTOR is provided with "remote access", defined as the act of connecting to a COUNTY attached information technology system from a non-county attached system through a public network, CONTRACTOR will maintain and use its non-county system, hardware, and software in compliance with COUNTY standards and policies set by the COUNTY Information Services Department.

8. **CONTRACT EXECUTION**

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "ELECTRONIC COPY OF A SIGNED CONTRACT" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "ELECTRONICALLY SIGNED CONTRACT" means a contract that is executed by applying an electronic signature using technology approved by the COUNTY.

9. **LIVING WAGE (If Applicable)**

Unless otherwise exempted or prohibited by law or County policy, where applicable, CONTRACTORS that contract with the COUNTY to provide Direct Services developed pursuant to a formal Request for Proposals process, as defined in County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy section 5.5.5.5 ("Living Wage

Policy”), and their subcontractors, where the contract value is \$100,000 or more (“Direct Services Contract”), must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If CONTRACTOR and/or a subcontractor violate this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

- y. Suspend, modify, or terminate the Direct Services Contract.
- z. Require the CONTRACTOR and/or Subcontractor to comply with an appropriate remediation plan developed by the COUNTY.
- aa. Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's rights to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring an action seeking the cancellation or suspension of a COUNTY contract. By entering into this contract, CONTRACTOR certifies that it is currently complying with Division B36 and the Living Wage Policy with respect to applicable contracts, and warrants that it will continue to comply with Division B36 and the Living Wage Policy with respect to applicable contracts.

**10. COUNTY DATA & CONFIDENTIALITY**

- a. Definitions: “COUNTY Data” shall mean data and information received by CONTRACTOR from COUNTY. County Data includes any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a CONTRACTOR for use by COUNTY. “County Confidential Information” shall include all material, non-public information (including material non-public County Data) appearing in any form (including, without limitation, written, oral or displayed), that is disclosed, directly or indirectly, through any means of communication by COUNTY, its agents or employees, to CONTRACTOR, its agents or employees, or any of its affiliates or representatives.
- b. CONTRACTOR shall not acquire any ownership interest in County Data (including County Confidential Information). As between CONTRACTOR and COUNTY, all County Confidential Information and/or County Data shall remain the property of the COUNTY. CONTRACTOR shall not, without COUNTY’s written permission, use or disclose County Data (including County Confidential Information) other than in the performance of its obligations under this Agreement.
- c. CONTRACTOR shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, and protect against unauthorized access to or use of County Data that

could result in substantial harm or inconvenience to COUNTY or any end users. Upon termination or expiration of this Agreement, CONTRACTOR shall seek and follow COUNTY's direction regarding the proper disposition of County Data.

- d. CONTRACTOR shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, and notifying COUNTY by phone or in writing within 24 hours of any incident of unauthorized access to County Data, or any other breach in CONTRACTOR's security that materially affects COUNTY or end users. If the initial notification is by phone, CONTRACTOR shall provide a written notice within 5 days of the incident. CONTRACTOR shall be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality, privacy, and information security requirements of this Agreement. Should County Confidential Information and/or legally protected County Data be divulged to unauthorized third parties, CONTRACTOR shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at CONTRACTOR's sole expense. CONTRACTOR shall not charge COUNTY for any expenses associated with CONTRACTOR's compliance with these obligations.
- e. CONTRACTOR shall defend, indemnify and hold COUNTY harmless against any claim, liability, loss, injury or damage arising out of or in connection with, the unauthorized use, access, and/or disclosure of information by CONTRACTOR and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the COUNTY.
- f. CONTRACTOR must require its employees and all persons performing services at its direction to comply with all applicable privacy laws and regulations, including but not limited to the provisions of Sections 827 and 10850 et seq. of the Welfare and Institutions Code (WIC) and California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 19 Regulations.
- I. All applications and records concerning any individual receiving services pursuant to this contract are confidential and are not open to examination for any purpose not directly connected with the administration, performance compliance, monitoring or auditing of the program.
  - II. No person may publish, disclose, use, or permit or cause to be published or disclosed; any confidential information pertaining to services, except as is provided by law.
- g. Upon the disclosure of confidential information, inadvertent or otherwise, the COUNTY may terminate this contract immediately and take legal action against CONTRACTOR. Any person who knowingly and intentionally violates the provisions stated above is guilty of a misdemeanor and the COUNTY intends to prosecute such violators to the full extent of the law.

- h. CONTRACTOR will inform all employees, agents, officers, and all persons performing services at its direction of the above provisions. All provisions of Article IV, Section 10. survive the termination of this contract.

**11. CALIFORNIA PUBLIC RECORDS ACT**

- a. The COUNTY is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If CONTRACTOR's proprietary information is contained in documents or information submitted to COUNTY, and CONTRACTOR claims that such information falls within one or more CPRA exemptions, CONTRACTOR must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the COUNTY will make best efforts to provide notice to CONTRACTOR prior to such disclosure. If CONTRACTOR contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara COUNTY before the COUNTY is required to respond to the CPRA request. If CONTRACTOR fails to obtain such remedy within the time the COUNTY is required to respond to the CPRA request, COUNTY may disclose the requested information.
- b. CONTRACTOR further agrees that it shall defend, indemnify and hold COUNTY harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by COUNTY of a CPRA request for information arising from any representation, or any action (or inaction), by the CONTRACTOR.

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**Article V**  
**Insurance Requirements**

**Indemnity**

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Contract by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Contract to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Contract and does not prevail in that contest.

**Insurance**

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Contract until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurance

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.



D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
  - a. Each occurrence - \$1,000,000
  - b. General aggregate - \$2,000,000
  - c. Products/Completed Operations aggregate - \$2,000,000
  - d. Personal Injury - \$1,000,000
2. General liability coverage shall include:
  - a. Premises and Operations
  - b. Products/Completed
  - c. Personal Injury liability
  - d. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

**Additional Insured Endorsement**, which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.
- 4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Contract may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Contract be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments) Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

**Agency:** City of Santa Clara

**Program Name:** Senior Nutrition Program – COVID-19 Emergency Meals

1. **SERVICE DESCRIPTION**

This is a contract between the County of Santa Clara (COUNTY) and City of Santa Clara (CONTRACTOR) for the purpose of providing to-go, curbside pickup, or home delivered Covid-19 emergency response meals at currently operating congregate meal site(s). These meals supplement the meals provided through the regular Congregate Meals program, which is funded, authorized by, and to be performed in accordance with the Older Americans Act of 1965, as amended, P.L. 89-73, U.S.C. Section 3000 et seq., and all amendments, rules, and regulations pertaining thereto, but this agreement is wholly, separately funded to satisfy the need for supplemental nutrition services cause by and during the Covid-19 pandemic emergency.

For logistical simplicity, services will be identical to services contracted for in CONTRACTOR's Congregate Meals contract with the COUNTY, except that all meal-related data and back up documentation must be tracked separately according to direction from COUNTY and that meals will generally not be served onsite or in a communal manner and meals may be served to populations not qualified to receive a meal under the Older Americans Act of 1965, with written approval of COUNTY.

2. **DELIVERABLES**

a. **Invoices**

CONTRACTOR will submit invoices in a format approved by COUNTY and as outlined in Section 6 of this Exhibit. Invoices must be signed by the CONTRACTOR.

b. **SSA Outcome Measurement Reporting**

CONTRACTOR will submit a quarterly report as outlined in Section 7 of this Exhibit and Exhibit D: Logic Model.

3. **TERM OF CONTRACT**

The term begins January 1, 2021, and expires on June 30, 2021, unless terminated earlier or otherwise amended.

4. **MAXIMUM FINANCIAL OBLIGATION**

COUNTY will reimburse CONTRACTOR actual allowable expenditures subject to the provisions of this Contract, for a total not to exceed 209280 in FY2020-2021.

5. **BUDGET CONTINGENCY**

This Contract is contingent upon the appropriation of sufficient funding by the COUNTY for the services covered by this Contract. Notwithstanding the termination provisions set forth herein, if funding is reduced or depleted by the County for services covered by this Contract, the COUNTY has the option to either terminate this Contract without notice (except that is necessary to transition clients in the discretion of the County) and with no liability occurring to the County, or to offer an amendment to this Contract indicating the reduced

amount.

**6. FEE FOR SERVICE CONTRACT**

- a. CONTRACTOR will be paid by COUNTY in accordance with Exhibit A: Program Provisions, Exhibit B: Program Plan & Requirements, Exhibit C: Budget, Exhibit D: Logic Model and Exhibit E: Federally Required Contract Provisions, for the performance of services as outlined in this Contract up to the maximum compensation.
- i. For Non-Profit Agencies, OMB Circular A-122.
  - ii. For Local Governments, OMB Circular A-87.
  - iii. For Public and Nonprofit Institutions of Higher Education, OMB Circular A-121.
  - iv. For Profit Making Organization, 41 CFR Part 1.
- b. If CONTRACTOR provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same will be deemed to be a gratuitous effort on the part of the CONTRACTOR and the CONTRACTOR will have no claim whatsoever against COUNTY.
- c. CONTRACTOR must participate in a quarterly reconciliation process. During the reconciliation process all funds awarded to CONTRACTOR must be reconciled to the costs incurred and to the remaining cash, if any. Quarterly reconciliations must be submitted with the corresponding monthly invoice. During each reconciliation, all funds paid to CONTRACTOR under its fee for service claims must be reconciled to the actual costs incurred by the contractor and the remaining cash, if any. This provision survives the termination of this Contract.
- d. CONTRACTOR must participate in a closeout period at the end of the COUNTY funding period. During the closeout period all funds awarded to CONTRACTOR must be reconciled to the costs incurred and to the remaining cash, if any. A closeout packet will be provided to CONTRACTOR by COUNTY at the end of the funding period and is due within forty-five (45) days thereafter. If actual cost of providing services based on Unit Cost per meal is less than the amount reimbursed by COUNTY, CONTRACTOR'S final reimbursement will be reduced by the overpayment received from COUNTY. This provision survives the termination of this Contract.

**7. OUTCOME MEASUREMENT REPORTING**

This contract requires SSA's performance and outcome measurement reporting in order to demonstrate the impact of services on client populations. CONTRACTOR shall monitor, measure and report on the service outputs and outcomes outlined in Exhibit D: Logic Model.

CONTRACTOR must submit to COUNTY a quarterly report using the form provided by the COUNTY. Instructions and training to complete the form can be found on [https://www.sccgov.org/sites/ssa/dfcs/Pages/partners\\_training.aspx](https://www.sccgov.org/sites/ssa/dfcs/Pages/partners_training.aspx).

CONTRACTOR must submit the report by the tenth (10th) working day after each quarter for services performed during the preceding quarter.

Quarterly Program Reports

CONTRACTOR will submit Quarterly Program Reports no later than the following dates:

- a. January 15, 2021 (if applicable)
- b. April 15, 2021 (if applicable)
- c. July 15, 2021

**8. PARTICIPANT CONTRIBUTIONS**

- a. CONTRACTOR will collect submit participant contributions according to the Senior Nutrition Program Congregate Meals Policy & Procedures Manual.
- b. To protect the anonymity of the participant, participant's contributions will be collected, combined, and returned to the Senior Nutrition Program with other Congregate Meals program contributions.

**9. COMPENSATION**

CONTRACTOR must submit to COUNTY an invoice in a form approved by COUNTY, by the tenth (10th) calendar day of each month for the month just preceding in which services were performed. The CONTRACTOR will get paid on a monthly basis upon receiving an accurate account and invoice for services rendered, as well as payment for participant and guest contributions as outlined in Exhibit B: Program Plan & Requirements.

- a. Prior to submittal, invoices and reconciliations must be certified and signed by a responsible officer of CONTRACTOR with authority to certify that the information submitted by CONTRACTOR is accurate and CONTRACTOR is entitled to payment under the terms of the Contract. COUNTY may rely on said certification in making payment, but this payment will not constitute a waiver of any of COUNTY's legal rights or objections.
- b. In order to ensure continuation of service, CONTRACTOR will not be paid for meals in excess of the number of year-to-date meals listed in the Service Delivery Plan in Exhibit C: Budget. Meals that are provided but not reimbursed in a particular month may be reimbursed if claimed on later invoice so long as CONTRACTOR has offered the agreed upon services continuously.
- c. If the invoice is in proper form and the items billed are payable under this Contract, COUNTY will make payment to CONTRACTOR.
- d. COUNTY will not be required to make payment if the amount claimed is not in accordance with the provisions of this Contract. All payments under this Contract will be made directly to CONTRACTOR as a corporate entity. Under no circumstances will COUNTY be required to make payments in any amount

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pursuant to this Contract to any other parties, including individual employees or creditors of CONTRACTOR.

- e. COUNTY is not obligated to reimburse CONTRACTOR for any service or expenditure not reported to COUNTY within sixty (60) calendar days after the end of the last month of the Contract term.

**10. SERVICE PROVIDED**

- a. CONTRACTOR must inform COUNTY of services and activities performed under this Contract and accept appropriately referred clients from the COUNTY for contract services as part of CONTRACTOR's client base.
- b. CONTRACTOR must coordinate services with other organizations providing similar services in order to foster community cooperation and avoid unnecessary duplication of services.
- c. CONTRACTOR must assist in the coordination and verification of eligibility for mobility management services for participants who use CONTRACTOR's site as a home meal site.

**11. CONTRACT REPRESENTATIVES**

- a. CONTRACTOR designates Deanna J. Santana, City Manager as CONTRACTOR's representative for the purpose of performing the services as required by this Contract. Unless otherwise indicated in writing, the above-named person has the primary authority and responsibility to carry out this Contract.
- b. COUNTY designates the Senior Nutrition Program Manager as its representative for the purpose of managing the services performed pursuant to this Contract.

**12. ADJUSTMENT TO EXHIBIT B: PROGRAM PLAN & REQUIREMENTS**

A written adjustment to the Program Plan & Requirements may be approved by the COUNTY Representative, or designee, identified in this Exhibit, without a contract amendment as long as the adjustment reflects approved original program provisions and both parties are notified at least 10 days before the adjusted Plan begins.

**13. ADJUSTMENT TO EXHIBIT C: BUDGET**

A budget adjustment can be made without a contract amendment if Contractor submits a written budget adjustment request to the COUNTY Contract Representative, or designee, and the request is approved by the COUNTY in writing. A budget adjustment must not increase the maximum financial obligation of this Contract.

CONTRACTOR may request a budget revision by submitting the COUNTY's Budget Revision Request form to the COUNTY's designated contract/program monitor. The Budget Revision Request must include a statement explaining the impact that the budget revision, if approved, would have on the program/service delivery. Upon approval of the CONTRACTOR's Budget Revision Request,

COUNTY will forward an approved copy of the Budget Revision Request form to the CONTRACTOR.

**14. ADJUSTMENT TO EXHIBIT D: LOGIC MODEL**

A written adjustment to the Logic Model may be approved by the COUNTY Representative, or designee, identified in this Exhibit, without a contract amendment as long as the adjustment reflects approved original program provisions and both parties are notified at least 10 days before the adjusted Logic Model begins.

**15. NOTICES**

All notices prescribed by this Contract will be in writing and deemed effective if sent by certified mail or registered mail and properly deposited with the United States Postal Service, postage prepaid with return receipt requested and addressed as follows:

To COUNTY: Social Services Agency Director  
CC: Senior Nutrition Program Manager  
353 West Julian Street, 4th Floor  
San Jose, California 95110-2335

To CONTRACTOR: Deanna J. Santana  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050

**16. COUNTY'S CONTRACT TRANSITION PROCESS**

CONTRACTOR agrees to provide all information deemed necessary by the County for use in subsequent procurement cycles.

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**Agency:** City of Santa Clara (CONTRACTOR)

**Program Name:** Senior Nutrition Program – COVID-19 Emergency Meals (PROGRAM)

**1. SERVICE DESCRIPTION & EXPECTED OUTCOME**

CONTRACTOR will work with the Social Services Agency – Senior Nutrition Program (COUNTY) and other community partners to ensure that the seniors who are not able to receive meals through the regular Congregate Meals contract or other funding sources receive nutritious and healthy meals at CONTRACTOR's nutrition site(s). CONTRACTOR will perform services in compliance with the Senior Nutrition Program, Congregate Policy & Procedures Manual, and any updates thereto.

**2. PERMITS AND LICENSES**

CONTRACTOR will obtain all permits and licenses necessary to the performance of this contract will assure that its subcontractors obtain the same. The CONTRACTOR will pay all normal fees for permits, licenses, inspections or any other certification or service required in the performance of this contract.

**3. ELIGIBLE INDIVIDUALS**

Persons who are eligible for meals and services under this contract are those persons who are 60 years of age or older or who are spouses of persons who are 60 years of age or older. Meals may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided, or individuals with disabilities who reside at home with and accompany older individuals who are eligible for services. Priority will be given to those older persons in greatest social and economic need with particular attention to seniors who are age 75 or older, low-income, living alone, and/or minorities as defined by the Older Americans Act of 1965. Additional eligible persons may be added by COUNTY in writing.

**4. MEALS**

- a. Meals served by CONTRACTOR will be the same as in the CONTRACTOR's Congregate Meals contract with COUNTY.
- c. Table settings will be of reasonable quality. If disposable dinnerware or to-go containers are used or provided, they will be of sturdy quality and maintain a safe food temperature until participant can return home to eat the meal.

**5. CONGREGATE MEAL SITES**

- a. CONTRACTOR will provide COVID-19 emergency meals at the congregate meal site(s), days, and times indicated in CONTRACTOR's Congregate Meal contract with the county. Notwithstanding, CONTRACTOR may make minor changes to the service days and times listed with prior written approval of COUNTY.
- b. CONTRACTOR may not relocate the meal site or add a meal site without prior notification, inspection, and approval by COUNTY. Relocation or addition of a meal site without the prior approval of the COUNTY may be considered a breach of the provisions of this contract. COUNTY may suspend

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or withhold payments, or terminate the contract if the relocation affects any of the provisions of the contract including, but not limited to the following:

- i. The relocation or addition reduces or terminates the provision of services to seniors in the geographic area served by this contract.
  - ii. The relocation or addition changes the service area served by this contract.
  - iii. The relocation or addition does not serve or give priority to older persons in the greatest social or economic need as defined by the Older Americans Act of 1965 as amended.
- c. The site must have adequate lighting and ventilation and must meet all applicable health, fire, safety and sanitation regulations. CONTRACTOR must obtain current certificates from appropriate public officials indicating the site is in compliance with health and fire regulations.
  - d. CONTRACTOR ensures that a pleasant pick up atmosphere is maintained and that there is adequate space for the equipment of participants, such as canes, crutches and wheelchairs, as well as for physical distancing during meal pick up.
  - e. There will be no architectural barriers which would prevent an eligible individual from having access to the meal site facility or pick up location.
  - f. Innovative meal delivery options may added to the PROGRAM during the term of this contract, or upon an extension of this contract, upon written approval of the COUNTY.
  - g. If a site uses a caterer to prepare its meals, upon written approval from COUNTY and upon obtaining all required governmental approvals, CONTRACTOR may switch to being a cook on site location. In the event of this switch, CONTRACTOR's per-meal rate will be changed to the standard cook on site per-meal rate if different than the catered meal rate.

**6. NUMBER OF MEALS, SERVING DAYS, AND HOLIDAYS**

- a. CONTRACTOR will provide up to the number of meals as specified in Exhibit C: Budget at the rate listed in the budget subject to the quarterly expense reconciliation process. Meals will provided to meet demand cause by the declared Covid-19 pandemic emergency and not to meet normal demand not related to the emergency. Meal
- b. CONTRACTOR will be paid for the number of meals provided to individuals, not the number of meals purchased or prepared. COUNTY will not reimburse meals served that do not meet the dietary requirements.
- c. CONTRACTOR may provide meals at any of its regular Congregate Meal site on their regularly scheduled operating days during regularly scheduled operating hours. Meals are not dedicated to a specific meals site but are flexible to meet any demand related to the emergency.

**7. FOOD INVENTORY**

CONTRACTOR will develop a written plan for conducting food inventories. The plan will include the procedures for conducting food inventories, identify persons responsible for conducting the inventory, and set the schedule for completing the inventories. The plan will also include a description of the "First-in-First Out" food rotation system that will be used to ensure stored goods are rotated to prevent

deterioration. CONTRACTOR will provide COUNTY with a copy of its food inventory plan and completed food inventories, upon request.

**8. PEST CONTROL**

CONTRACTOR is required to follow the pest control requirements in the current Senior Nutrition Program, Congregate Policy & Procedures Manual. In addition, if a pest issue is identified. COUNTY reserves the right to require CONTRACTOR to take corrective action to remedy the issue or require any other action from CONTRACTOR necessary to protect the health and welfare of participants.

**9. DATA COLLECTION AND PRIVACY**

- a. CONTRACTOR will be required to collect program data through the use of electronic collection methods that is separate from its Congregate Meals contract. Such methods will include the use of an iOS-device to electronically track participant meals. CONTRACTOR must comply with collection requirements as directed by COUNTY.
- b. CONTRACTOR will be required to create separate sign-in sheets as back up for the electronic program data in subsection (a) above.
- c. CONTRACTOR must submit a completed and signed Santa Clara Senior Nutrition Program – FEMA Monthly Report for the prior month by the fourth (4<sup>th</sup>) working day of the current month to their assigned registered dietitian.
- d. Quarterly Report. Quarterly Reports with output and outcome data must be turned in with September, December, March, and July invoices. Quarterly Reports must be prepared on the form provided by the COUNTY. Submission of the Quarterly Report is required before the corresponding monthly invoice can be paid.
- e. Within 30 days of executing this agreement, and annually thereafter if the term of this agreement is extended, all employees, volunteers, subcontractors, or agents of CONTRACTOR who handle confidential client information, including but not limited to registration forms, must complete the information security and privacy presentation online training provided by the California Department of Aging (currently available at: [https://www.caging.ca.gov/ProgramsProviders/Information Security and Privacy/Presentation/index.html](https://www.caging.ca.gov/ProgramsProviders/Information%20Security%20and%20Privacy/Presentation/index.html)). Upon completion, evidence must be submitted to COUNTY to provide to Sourcewise.

**10. PARTICIPANT CONTRIBUTION PRINCIPLES**

CONTRACTOR must follow the participant contributions policy in its Congregate Meals contract with COUNTY.

**11. PURCHASES**

COUNTY may require CONTRACTOR, by written notice, to obtain approval of COUNTY for all purchases of food and materials. Approval will not be withheld by COUNTY except for good cause.

**12. NON-EXPENDABLE PROPERTY**

Any acquisition by CONTRACTOR of non-expendable property with a retail purchase price in excess of five- hundred dollars (\$500.00), that is required by CONTRACTOR for performance of this Contract, must require prior written

approval of COUNTY. COUNTY will be the legal owner of all equipment that is purchased with COUNTY funds. COUNTY may take possession of its equipment if it is not being used primarily for program purposes and will determine disposition of that equipment upon expiration or termination of this contract.

**13. COMPETITIVE BID REQUIREMENTS**

- a. All equipment purchases by the CONTRACTOR exceeding five-hundred dollars (\$500.00) must be procured through a competitive process in compliance with Sourcewise's bidding procedures unless services or materials can be obtained only from a single source. Any procurement exceeding ten-thousand dollars (\$10,000.00) must also comply with the requirements of Office of Management and Budget Circular Uniform Guidance.
- b. Unless CONTRACTOR uses the COUNTY's designated vendor, prior to making any equipment purchase that has a value of five-hundred dollars (\$500) or more, CONTRACTOR will submit to COUNTY evidence that it has received a minimum of three (3) bids for such subcontract and justification for selection of the successful bidder or submit documentation to support the use of the sole supplier. Record shall be maintained by CONTRACTOR showing the parties solicited and the bids submitted.

**14. RESTRICTION OF DISCLOSURES**

Any reports, analysis, studies, drawings, information or data generated as a result of this contract are to be provided to COUNTY prior to public dissemination.

**15. ERROR RATE REQUIREMENT**

When there is a discrepancy between the paper total (signatures of FEMA participants) and scanner total, an error rate arises. CONTRACTOR's data must not exceed an error rate of 5%.

If CONTRACTOR's data exceeds an error rate of 5%, COUNTY may withhold a percentage of CONTRACTOR's invoice equivalent to the percentage of the error rate exceeding the 5% threshold. For example, if CONTRACTOR has an error rate of 23%, COUNTY will withhold 18% (23% - 5%) of CONTRACTOR's invoice for that month.

**16. GRIEVANCE POLICY**

CONTRACTOR must follow the grievance policy in its Congregate Meals contract with COUNTY.

**17. FISCAL YEAR CLOSEOUT SUBMISSION**

Due to fiscal reporting deadlines, CONTRACTOR must submit requested fiscal year-end closeout documents to COUNTY accounting staff by July 6, 2021.

**Agency Name:** City of Santa Clara

**Program Name:** COVID-19 Emergency Meals

A	B	C	D
Budget	Annual Units	Rate	Total
Per Meal Reimbursement Rate*	24,000	\$8.72	\$209,280.00
<b>Contract Total:</b>			\$209,280.00

\*Actual expenses must be reconciled to the amount of the County per meal reimbursement quarterly and at year end. Food costs must equal at least 25% less \$25 of the Total Contract Amount. Meals that are unserved will not be reimbursed. Only meals that meet requirements of the Congregate Meals program and provided to participants who are eligible for the Congregate Meals program will be reimbursed.

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**Logic Model -**

**Senior Nutrition Program - COVID-19 Emergency Meals**

**Agency Name:**

**City of Santa Clara**

**A. Contract Goal:** Provide nutritious meals to older adults across Santa Clara County during the COVID-19 pandemic.

B. Situation	C. Activities/Services	D1. # of unduplicated clients/families served per FY	D2. # of Outputs per FY	D3. Output	E. Short/Long Term Outcome Measures
<p>Lack of food access, financial instability, and social isolation are pervasive issues among the older community. While socialization options are limited during the COVID-19 pandemic, congregate meals sites providing to-go, curbside, or home delivered meals become an important outlet because it provides a daily opportunity to see familiar faces in an environment not open to the general public/all age groups, and an avenue to learn about or be connected with other services during this unique time.</p>	<p>Provide to-go, curbside, or home-delivered congregate meals to older adults age 60 and older or other qualified participants who would otherwise be turned away from the congregate meal site.</p>	<p>N/A</p>	<p>24000</p>	<p>Meals</p>	<p>See outcomes from Congregate Meals contract.</p>

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**COUNTY OF SANTA CLARA**  
**FEDERALLY REQUIRED CONTRACT PROVISIONS**

The federally-required contract provisions listed below are made a part of the Contractor's Contract with the County.<sup>2</sup>

The term "Contractor", as used throughout this document shall mean the contractor identified in the Contract as Contractor, Provider, Consultant, or similar term.

The term "Contract" as used throughout this Exhibit shall mean the contract or other agreement, with exhibits, into which this Exhibit is incorporated.

The term "State" as used throughout this document shall mean the State of California and include any of its departments or agencies.

These federally required contract provisions will collectively be referenced as the "FEMA Contract Terms."

The terms and conditions of the Contract and the FEMA Contract Terms should be read to operate in concert, except where directly in conflict. In the event of a conflict between the terms of the Contract and the FEMA Contract Terms, and unless otherwise stated within the terms of this Exhibit, the FEMA Contract Terms shall govern and prevail.

**A. No Obligation by the Federal Government**

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities of the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

**B. Access to Records**

- (1) Upon request, the Contractor agrees to provide the County, State, Federal Emergency Management Agency (FEMA) Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

<sup>2</sup> <sup>1</sup> The County intends to seek reimbursement from federal and state grants, e.g., the Federal Emergency Management Agency's Public Assistance grants and California Governor's Office of Emergency Services grants, for the goods and/or services provided under the Contract to the extent they are procured as part of emergency protective measures or disaster response measures undertaken by the County.

- (3) Upon request, the Contractor agrees to provide the FEMA Administrator or the FEMA Administrator's authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the County of Santa Clara and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**C. Procurement of Recovered Materials**

- (1) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are United States Environmental Protection Agency-designated items unless the product cannot be acquired—
  - i. Competitively within a timeframe providing for compliance with the Contract performance schedule;
  - ii. Meeting Contract performance requirements; or
  - iii. At a reasonable price.
- (2) Information about this requirement along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**D. Department of Home and Security (DHS) Seal, Logo and Flags.**

The Contractor shall not use the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials without specific FEMA approval.

**E. Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**F. Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 USC Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

During the performance of this Contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of



investigation to ascertain compliance with such rules, regulations, and orders.

- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. *Provided,* That if the applicant so participating is a State or local government the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

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

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the

Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**G. Clean Air Act and the Federal Water Pollution Control Act**

The provisions of this Section H apply to contracts exceeding \$150,000.

Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 1401 et seq.
- (2) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

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

**H. Byrd Anti-Lobbying Amendment**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by the Byrd-Anti-Lobbying amendment. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress

in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification:

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and

Statements, apply to this certification and disclosure, if any.

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

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

**I. Contract Work Hours and Safety Standards Act**

The provisions of this Section J apply to contracts over \$100,000 that involve the employment of mechanics and laborers.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages, liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring

the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**J. Debarment and Suspension**

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

**K. Termination for Cause**

If the Contract value exceeds \$10,000, to the extent the Contract does not provide for termination for cause outside of this Exhibit, and in addition to any right to terminate for convenience as described in the Contract, the County may, after providing five days' written notice, terminate the Contract for the Contractor's failure to perform or observe any term, covenant, or condition of the Contract.

**L. Remedies**

In the event of a breach by the Contractor of any term, covenant, or condition of the Contract, the County shall have the right to pursue all available remedies at law or equity. Except as expressly provided elsewhere in this Contract, each party's rights and remedies under this Contract are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

**M. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms**

If this Contract was awarded in a competitive procurement, Contractor engages subcontractors to perform work under the Contract, and the Contract is for \$10,000 or above, Contractor shall place qualified small and minority businesses and women's business enterprises on solicitation lists used in the procurement; solicit small and minority business and women's business enterprises; divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; and use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**N. Subcontracts**

To the extent applicable, the Contractor shall include the provisions of this Exhibit in all subcontracts.

DRAFT 3-26-21