



# **FY 2019-2020**

**AGREEMENT NO:** K/T AAA 19/20-07

**CONTRACTOR:** Community Services and Employment Training

## AGREEMENT

**THIS AGREEMENT** is entered into on \_\_\_\_\_, between the **KINGS/TULARE AREA AGENCY ON AGING**, hereinafter referred to as “K/T AAA” and **COMMUNITY SERVICES EMPLOYMENT TRAINING (CSET)**, hereinafter referred to as “CONTRACTOR,” with reference to the following Agreement.

### **ACCORDINGLY, IT IS AGREED:**

**1. TERM:** This Agreement shall become effective as of July 1, 2019, and shall terminate on June 30, 2020. No obligations may be incurred after June 30, 2020.

**2. DEFINITIONS AND SCOPE OF WORK:** Definitions and the Scope of Work for the Title V Senior Community Service Employment Program are incorporated in **Exhibit A**, entitled General Scope of Work, which exhibit is made a part of this Agreement by reference.

**3. BUDGET DETAIL, PAYMENT PROVISIONS, AND CLOSEOUT:** Information on funding, matching funds, invoicing, program income, budgets, and budget revisions are incorporated in **Exhibit B**, entitled Budget Detail, Payment Provisions, and Closeout, which exhibit is made part of this agreement by reference.

**4. SPECIAL TERMS AND CONDITIONS:** Information on general assurance, property, audits, confidentiality, nondiscrimination, records, insurance, and monitoring are incorporated in **Exhibit C**, entitled Special Terms and Conditions, which exhibit is made a part of this Agreement by reference.

**5. ASSURANCES:** As the Contractor is receiving funding from Title V programs, **Exhibit D**, entitled Additional Provisions, is made part of this Agreement by reference.

**6. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):** Contractor shall comply with the Health Insurance Portability and Accountability Act (HIPAA) exhibit, attached as **Exhibit E**, entitled HIPAA Requirements, which exhibit is made a part of this Agreement by reference.

**7. CONTRACT AWARD AND UNITS OF SERVICE:** Contractor shall be paid an amount not to exceed **EIGHTY FOUR THOUSAND TWO HUNDRED NINETY FIVE dollars** (\$84,295) for service categories and contracted service units that shall include, without limitation, those services as per **Exhibit F**, entitled Contract Award and Goals, which exhibit is made part of this Agreement by reference.

**8. EXPENDITURE REPORT AND REQUEST FOR FUNDS:** The Expenditure Report and Request for Funds format that is required to be used by the CONTRACTOR in Fiscal Year 2019/2020 is set forth in **Exhibit G**, entitled Expenditure Report and Request for Funds, which exhibit is made part of this Agreement by reference. The K/T AAA will accept no alterations to these formats.

**9. REPORTING REQUIREMENTS:** The Contractor shall provide planning documents, reports, and/or data as detailed in Agreement Exhibits. The schedule for submission

of these documents to K/T AAA is set forth in **Exhibit D**, entitled Additional Provisions, is made part of this Agreement by reference.

**10. COMPLIANCE WITH LAW:** Contractor shall provide services in accordance with all applicable Federal, State, and local laws, regulations, and directives, including, but not limited to, laws regarding conflicts of interest or prohibited activities, such as Government Code sections 1090 et seq., Government Code sections 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission, and Government Code sections 16645 et seq. (influencing union organization activities). With respect to Contractor's employees, Contractor shall comply with all laws and regulations pertaining to wages and hours, State and Federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment. If Contractor is an individual or sole proprietorship, this Agreement is subject to the Independent Contractor reporting requirements of Unemployment Insurance Code section 1088.8. In such case, Contractor shall accurately fill out and complete the California Unemployment Development Department's form DE-542 ("Report of Independent Contractor [s]") and submit it to K/T AAA at the time this Agreement is executed by Contractor. Failure to provide form DE-542 with complete information by the time specified may, at K/T AAA's option, prevent approval of this Agreement by K/T AAA, or may be grounds for its termination by K/T AAA, and K/T AAA reserves the right to offset the amount of any fines or penalties imposed on K/T AAA against any sum due or to become due.

**11. INSURANCE:** CONTRACTOR shall provide and keep in force during the term of this Agreement, at no expense to K/T AAA, insurance coverage as detailed in **Exhibit C**, entitled Special Terms and Conditions, which exhibit is made a part of this Agreement by reference.

**12. INDEPENDENT CONTRACTOR STATUS:**

A. This Agreement is entered into by both parties with the understanding that Contractor will perform all services required under this Agreement as an Independent Contractor. Nothing in this Agreement shall be construed to constitute Contractor or any of its agents, employees, or officers as an agent, employee, or officer of K/T AAA, and Contractor shall advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of K/T AAA. Subject to any performance criteria contained in this Agreement, Contractor shall be solely responsible for determining the means and methods of performing the specified services, and K/T AAA shall have no right to control or exercise any supervision over Contractor as to how the services will be performed. As Contractor is not K/T AAA's employee, Contractor is responsible for paying all required State and Federal taxes. In particular, K/T AAA will not:

1. Withhold FICA (Social Security) from Contractor's payments.
2. Make State or Federal unemployment insurance contributions on Contractor's behalf.
3. Withhold State or Federal income tax from payments to Contractor.
4. Make disability insurance contributions on behalf of Contractor.
5. Obtain unemployment compensation insurance on behalf of Contractor.

B. Notwithstanding this Independent Contractor relationship, K/T AAA shall have the right to monitor and evaluate the performance of Contractor to assure compliance with this Agreement.

**13. INDEMNIFICATION:** The CONTRACTOR agrees to indemnify, defend, and save harmless K/T AAA and County of Tulare, and their officers, agents, and employees from any and all claims and losses, including any costs or expenses incurred by K/T AAA and County of Tulare, accruing or resulting to any contractors, vendors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this contract were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the CONTRACTOR in the performance of this contract, except where such indemnification is prohibited by law.

**14. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between Contractor and K/T AAA, and no prior or oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties. Should there be any conflict between the terms of this agreement and any of the exhibits, the terms of this agreement shall control.

**15. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning, or intent of the provisions under the headings.

**16. NOTICES:**

A. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission, or sent by first-class mail, postage prepaid, and addressed as follows:

**K/T AAA:**

KINGS/TULARE AREA AGENCY ON AGING

5957 S. Mooney Boulevard

Visalia, California 93277

**Fax No.: (559) 737-4694    Phone No.: (559) 624-8075**

**CONTRACTOR:**

COMMUNITY SERVICES EMPLOYMENT TRAINING (CSET)

312 NW 3<sup>rd</sup> Ave

Visalia, California 93291

**Fax No.: (559) 733-3971                      Phone No.: (559) 732-4194**

B. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first-class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

**17. CONSTRUCTION:** This Agreement reflects the contributions of both parties and, accordingly, the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

**18. NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

**19. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. CONTRACTOR waives the removal provisions of California Code of Civil Procedure section 394.

**20. WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not constitute a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

**21. EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**22. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases, the remainder of the Agreement shall continue in full force and effect.

**23. FURTHER ASSURANCES:** In addition to those assurances as set forth in **Exhibit D**, each party will execute any additional documents and perform any further acts as may be reasonably required to effect the purposes of this Agreement.

**24. ASSURANCES OF NON-DISCRIMINATION:** Contractor shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by State or Federal law or regulation.

**25. ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided for in this Agreement, K/T AAA is relying on the personal skill, expertise, training, and experience of Contractor and Contractor's employees, and no part of this Agreement may be assigned or subcontracted by Contractor without the prior written consent of K/T AAA. Furthermore, the Contractor shall monitor, evaluate, and document the performance of any and all sub-contractors.

**26. DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties; otherwise, each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.

**27. SOFTWARE WARRANTY:** Contractor warrants that any software furnished hereunder, or any software used by it to perform the services to be provided under this

Agreement, will continue processing accurately for the term of this Agreement and any extension thereof and that the use of said software shall not cause incorrect scheduling or reporting or other improper operations or results.

**28. LICENSING AND CERTIFICATION:** Contractor represents that it maintains necessary licensing and certification to provide the services under contract and agrees to notify K/T AAA immediately should that status cease or should any action be initiated that may affect that status.

**29. EQUIPMENT:**

A. All equipment and/or non-expendable personal property (herein collectively referred to as “equipment”) purchased out of revenues provided under this Agreement shall be the property of the K/T AAA, and shall be managed in accordance with requirements defined in **Exhibit C**, entitled Special Terms and Conditions, which exhibit is made a part of this Agreement by reference. If the cost of such equipment exceeds in whole or in part **FIVE HUNDRED DOLLARS (\$500.00)**, Contractor shall request written pre-approval by the K/T AAA before acquisition. K/T AAA may approve or deny each such request. None of the equipment described in this paragraph, or any equipment owned by K/T AAA in possession of Contractor, may be sold, leased, rented, exchanged, licensed, loaned, or encumbered in any way without prior written permission from K/T AAA. The K/T AAA retains the right of final approval on all equipment transfers.

B. Contractor shall maintain all equipment in good operating condition and shall be responsible for all costs of maintenance and/or repair necessary to maintain said equipment in good operating condition for the normal life of the equipment. Contractor shall further arrange for adequate security measures to protect said equipment from loss or damage due to theft or vandalism, and for self-insurance, which shall name K/T AAA as additional insured and which shall be of sufficient coverage to provide for the replacement value of any said equipment due to damage or loss because of fire, vandalism, theft, or negligence.

**30. CONFLICT OF INTEREST:**

A. Contractor agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest or appearance of conflicts of interests, including, but not limited to, Government Code section 1090, et seq., and the Political Reform Act, Government Code section 18000 et seq and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations, and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including Contractor for this purpose, from the making of any decision on behalf of K/T AAA in which such officer, employee, consultant, or Contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee, consultant, or Contractor participates in or influences any K/T AAA decision that has the potential to confer any pecuniary benefit on Contractor or any business firm in which Contractor has an interest, with certain narrow exceptions.

B. Contractor agrees that if any facts come to its attention that raise any questions as to the applicability of conflicts of interest law, it will immediately inform the K/T AAA designated representative and provide all information needed for resolution of this question.

**31. NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS:** By signing this Agreement, Contractor agrees to comply with Title VI and VII of the Civil Rights Act of 1964 as amended; section 504 of the Rehabilitation Act of 1963 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977 as amended and in particular section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code section 51 et seq., as amended; California Government Code sections 11135-11139.5, as amended; California Government Code section 12940 (c), (h)(1), (i) and (j); California Government Code section 4450; Title 22, California Code of Regulations sections 98000-98413; Title 24 of the California Code of Regulations, section 3105A(e) the Dymally-Altore Bilingual Services Act (California Government Code sections 7290-7299.8); section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable Federal and State laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84, and 91; 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall, because of ethnic ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving Federal or State financial assistance; and will immediately take any measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal and State assistance; and the Contractor hereby gives assurance that administrative methods/procedures that have the effect of subjecting individuals to discrimination will be prohibited.

Contractor agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the aforementioned laws, rules, and regulations, and permit authorized County, State, and Federal government personnel, during normal working hours, to review such books and accounts as needed to ascertain compliance. If there are any violations of this assurance, the State shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code section 10605, or Government Code sections 11135-11139.5, or any other laws, or the issue may be referred to the appropriate Federal agency for further compliance action and enforcement of this assurance.

This assurance is binding on the Contractor directly or through contract, license, or other provider of services, as long as it receives Federal or State assistance.

**32. AVAILABILITY OF FUNDS:** Independent of any other right to terminate set forth in this Agreement, because this Agreement is entered into with the anticipation of certain funds being available, either locally or from the State or Federal governments, if such funding, for any reason, is no longer available, or in the event that K/T AAA determines that it does not have adequate funding, this Agreement shall terminate by K/T AAA giving written notice of immediate termination or otherwise specifying the effective date of termination.

**33. GRIEVANCE POLICY:** Contractor agrees to document, investigate, and resolve any and all client or potential client complaints relating to K/T AAA services. The Contractor will ensure compliance with the K/T AAA Client Complaint and Grievance Procedure, and ensure that any client complaints are referred to the K/T AAA in accordance with the procedure.

**34. TRANSITION PLAN:** In the event of termination per **Exhibit C** (Special Terms and Conditions, Article XII), the Contractor will develop a Transition Plan as required in **Exhibit D** (Additional Provisions, Article IV).

**35. CULTURAL COMPETENCE AND DIVERSITY:** Contractor shall comply with the Cultural Competence exhibit, as set forth in Exhibit H attached.

**36. STATE OF CALIFORNIA GENERAL TERMS AND CONDITIONS:** Contractor shall comply with the State of California's General Terms and Conditions standard contract language, available for reference at:  
<http://www.documents.dgs.ca.gov/pd/traffic/wsca/participatingaddendum/UPSGTC610.pdf>

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

**K/T AAA**

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

**CONTRACTOR**

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

Corporations Code Section 313 requires that contracts with a corporation shall be signed by the (1) chairman of the Board, the president or any vice-president and (2) the secretary, any assistant, the chief financial officer, or any assistant treasurer; unless the contract is also accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract.



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## EXHIBIT A: GENERAL SCOPE OF WORK

### ARTICLE I. DEFINITIONS

- A. Title V Senior Community Service Employment Program (SCSEP)** means a program that serves low-income persons who are 55 years of age and older and who have poor employment prospects by training them in part-time community service assignments and by assisting them in developing skills and experience to facilitate their transition to unsubsidized employment. [Older Americans Act (OAA) 502(a)(1)] [20 CFR Part 641]
- B. Participant** means an individual who is eligible for the Title V SCSEP, is given a community service assignment, and is receiving services funded by the program for up to 48 months. [OAA 518(a)(3)(B)] [20 CFR 641.140] [20 CFR 641.570(a)]
- C. Participant Position** means an authorized training slot whose unit cost includes administration, participant wage and fringe benefits, and other participant costs. The number of participant slots and the amount of funding available for a given Fiscal Year is based on an equitable distribution ratio determined by the U.S. Census and allocated by the U.S. Department of Labor (DOL). [OAA 506(g)(1)] [OAA 507] [20 CFR 641.140]
- D. Modified Positions** means the number of authorized training slots adjusted to account for states with higher minimum wage paid to participants. [Title V SCSEP Quarterly Progress Report-Employment Training Administration (ETA) 5140]
- E. Unemployed** means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income. [OAA § 518(a)(9)] [20 CFR 641.140]
- F. Low Income** means family income not more than 125 percent of the federal poverty guidelines. [OAA 518(a)(3)(A)]
- G. Eligible Service Population** means unemployed low-income California residents who are 55 years of age or older and who have poor employment prospects. [OAA 518 (a)(3)(A)] [20 CFR 641.500]
- Priority must be given to individuals who are 65 years of age and older or:
- Sixty-five (65) years of age and older
  - Have a disability.
  - Have limited English proficiency or low literacy skills.
  - Reside in a rural area.
  - Are veterans or spouses of veterans as defined in 20 CFR 641.520(a)(5) 38 U.S.C. 4215(a)..

- Have low employment prospects.
  - Have failed to find employment after utilizing services provided through the One-Stop Delivery System.
  - Are homeless or at risk for homelessness. [OAA 518(B)] [20 CFR 641.520]
- H. Host Agency** means a public agency or private non-profit organization exempt from taxation under §501(c)(3) of the Internal Revenue Code of 1986 which provides a training work site and supervision for one or more participants. [20 CFR 641.140]
- I. Program Income** means income earned by the contractor during the contract period that is directly generated by an allowable activity supported by contract funds or earned as a result of the award of contract funds.
- J. In-Kind Contributions** mean the value of non-cash contributions donated to support the project or program (e.g., property, service, host agency supervisory time, etc.).
- K. Indicators of Effectiveness in Serving employers, Host Agencies, and Project Participants** is defined as the combined results of customer assessments of the services received by each of these three customer groups. [20 CFR 641.710(e)]
- L. Infrastructure Costs** means the shared infrastructure costs negotiated between the contractor and the local Workforce Development Board (WDB) to operate a local AJC or One-Stop Center. Shared infrastructure costs are required of all WIOA partners, including Title V SCSEP. These costs are identified in an executed Memorandum of Understanding (MOU) between the contractor and the local WDB. Infrastructure Costs may be charged to Administration or Other Program. [29 U.S.C. 3151] [20 CFR 678.400 through 20 CFR 678.510]
- M. Community Service** means part-time, temporary employment paid with contract funds in projects at host agencies through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment. The term “community service assignment is used interchangeably with “community service employment.” Assignments may be supplemented by general or specialized skills training and a participant must have an Individual Employment Plan (IEP) that details skills to be attained and timelines for achieving the goal. [OAA § 518(a)(2)] [20 DFR 641.140] [20 CFR 641.577]
- N. On-The-Job-Experience (OJE) Training** means developing a training assignment that provides the participant an opportunity to develop and practice specific skills and/or experience, which are not attainable through the regular community service assignment. [Older Worker Bulletin N. 04-04]

- O. American Job Centers (AJC, also known as the One-Stop Centers)** means agencies that are funded by the Workforce Innovation and Opportunities Act (WIOA). [20 CFR 678.900]
- P. Core Measures** means performance measures that are subject to goal-setting and corrective action. [OAA 513(b)(1)] [20 CFR Part 641.700(a)] [20 CFR 641.710]
- Core indicators include:
1. Hours of community service employment;
  2. Percentage of project participants who are in unsubsidized employment during the second quarter after exit from project;
  3. Percentage of project participants who are in unsubsidized employment during the fourth quarter after exit from the project;
  4. Median earnings of project participants who are in unsubsidized employment during the second quarter after exit from the project;
  5. Indicators of effectiveness in servicing employers, host agencies, and project participants;
  6. Number of eligible individuals;
  7. Number of most-in-need individuals served;
- [OAA 513(b)(1)] [OAA 518(a)3)(B)II) or (b)(2)] [20 CFR 641.700(b)] [20 CFR 641.710]
- Q. Hours of Community Service Employment** means the number of hours of community service provided by Title V SCSEP participants [20 CFR 641.577] [20 CFR Part 641.710(a)(1)].
- R. Measures of Performance** means the seven core measures that are subject to goal-setting and corrective action. [20 CFR 641.700(a)] [20 CFR 641.720]
- S. Median Earnings of Project participants Who are in Unsubsidized Employment During the Second Quarter After Exit from the Project** is defined by the formula: For all participants who exited and are in unsubsidized employment during the second quarter after the exit quarter: The wage that is at the midpoint (of all the wages) between the highest and the lowest wage earned in the second quarter after the exit quarter. [20 CFR 641.710(d)]
- T. Recipient Local Share** means local cash and/or in-kind contributions made by the Contractor, Subcontractor, or other local resources and reported to CDA [OAA 502©(2)] [20 CFR 641.809]
- U. Limited English Proficiency (LEP)** means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. [20 CFR 641.140]
- V. Number of Eligible Individuals Served** (service level) means the total number of participants served divided by the Contractor's authorized number of positions, after adjusting for minimum wage. [20 CFR 641.710(f)].

**W. Number of Most-in-Need Individuals Served** (service to most-in-need) means service to participants who meet any of the following characteristics: [OAA 518(a)(3)(B)(ii)] [20 CFR 641.710(a)(6)]

- Have severe disability.
- Are frail.
- Are age 75 or older.
- Meet the eligibility requirements related to age for, but do not receive benefits under Title II of the Social Security Act.
- Live in an area with persistent unemployment and are individuals with severely limited employment prospects.
- Have limited English proficiency.
- Have low literacy skills.
- Have a disability.
- Reside in a rural area.
- Are veterans.
- Have low employment prospects.
- Have failed to find employment after utilizing services provided under Title I of the Workforce Innovation and Opportunity Act, Public Law 113-128.
- Are homeless or at risk for homelessness.

[OAA 518(a)(3)(B)(ii) or (b)(2)] [20 CFR 641.710(g)]

**X. Participant Durational Limit** means a participant can be enrolled in the program for up to forty-eight (48) months. [OAA 518(a)(3)(B)(i)] [20 CFR 641.570(a)] [California Department of Aging (CDA) Program Memo (PM) 10-19]

**Y. Percentage of Project Participants Who are in Unsubsidized Employment During the Second Quarter After Exit from Project** is defined by the formula: The number of participants who exited during the reporting period who are employed in unsubsidized employment during the second quarter after the exit quarter divided by the number of participants who exited during the reporting period multiplied by 100. [20 CFR 641.710(b)]

**Z. Percentage of Project Participants Who are in Unsubsidized Employment During the Fourth Quarter After Exit from the Project** is defined by the formula: The number of participants who exited during the reporting Period who are employed in unsubsidized employment during the fourth quarter after the exit quarter divided by the number of participants who exited during the reporting period multiplied by 100 [20 CFR 641.710(c)]

**AA. Supportive Services** means services, such as transportation, health and medical services, special job-related or personal counseling, incidentals [such as work shoes, badges, uniforms, eyeglasses, and tools], child and adult care, housing, including temporary shelter, follow up services, and needs related payments which are necessary for an individual to participate in program activities

authorized under Title V SCSEP. [OAA 502(c)(6)(A)(iv)] [OAA 518(a)(8)] [20 CFR 641.545]

- BB. Classroom Training Hours** means the number of hours spent in classroom training by SCSEP participants. [20 CFR 641.540(c)]
- CC. Job Ready** refers to individuals who do not require further education or training to perform work that is available in their labor market. Projects may not enroll as Title V SCSEP participants job-ready individuals who can be directly placed into unsubsidized employment. Such individuals should be referred to an employment provider, such as the AJC for job placement assistance under WIA or another employment program. [20 CFR 641.140] [20 CFR 641.512]
- DD. Title V SCSEP Performance and Results Quarterly Progress Report System (SPARQ)** means the DOL system used to process and analyze Title V SCSEP data and the system used to view, print, and save Title V SCSEP quarterly progress reports, data quality reports, and management reports. [OAA 503(f)(3)(4)] [20 CFR 641.879(b)(e)(f)(h)]
- EE. Web Data Collection System (WDCS)** means the DOL web-based data collection system used to input all Title V SCSEP program and participant information into SPARQ. [OAA 503(f)(3)(4)] [SCSEP Data Collection Handbook Rev. 7 (March 2017) page i] [20 CFR 641.879(b)(e)(f)(h)]
- FF. BCT Partners** means the organization under contract to DOL to maintain the Title V SCSEP SPARQ and the WDCS and that is responsible for providing on its website the SPARQ user's guide and DOL policy guidance related to system upgrades. [20 CFR 641.879(b)] [20 CFR 641.879(e)-(i)]
- GG. Charter Oak Group (COG)** means the organization under contract to DOL to create the Title V SCSEP WDCS handbook that provides direction on entering data into the WDCS and providing on its website DOL policy guidance, frequently asked questions, and revisions to the handbook. [20 CFR 641.879(b)] [20 CFR 641.879(e)-(i)]
- HH. Transfer/Change Utility** means the WDCS procedure used to transfer a participant in SPARQ from one contractor to another or changing sub-contractor within a contractor. [Title V SCSEP Data Collection Handbook Rev. 7 (March 2017), Participant Form Guide (page 39, number 17)]
- II. State Plan** means a plan that outlines a four-year strategy, and describes the planning and implementation process, for the statewide provisions of community service employment and other authorized activities for eligible individuals under Title V SCSEP. [OAA 503(a)] [20 CFR 641.140]

## ARTICLE II. SCOPE OF WORK

### A. The CONTRACTOR shall:

1. Implement statutory provisions of the Title V SCSEP in accordance with all applicable laws and regulations:
  - a. Older Americans Act (OAA) of 1965, as amended through Public Law 114-144, enacted April 1, 2016
  - b. 20 CFR Part 641 SCSEP: Final Rule, September 1, 2010.
  - c. 20 CFR Part 641 SCSEP; Performance Accountability, Final Rule, August 29, 2018.
  - d. 20 CFR Part 641 SCSEP; Performance Accountability, Interim Final Rule, December 1, 2017.
  - e. Workforce Innovation and Opportunity Act of 2014 (WIOA), Public Law 113-128.
  - f. 2 CFR Part 200, Office of Management and Budget (OMB), Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Final Rule.
  - g. 2 CFR Part 2900, Uniform Administrative, Requirements, Cost Principles and Audit Requirements for Federal Awards Technical Amendments, Department of Labor (DOL).
  - h. 20 CFR 678.400 through 20 CFR 678.510.
  - i. Jobs for Veterans Act of 2002, Public Law 107-288. [38 U.S.C. 4215]
  - j. Age Discrimination in Employment Act of 1967, Public Law 90-202.
  - k. California Healthy Workplaces/Healthy Families Act 2014.
  - l. Age Discrimination Act of 1975. [42 U.S.C. 6101 to 6107]
  - m. Terms and Conditions of this Agreement and the Terms and Conditions of the current SCSEP grant.
  - n. Other CDA PMs, laws, regulations, and guidance pertaining to Title V SCSEP posted on the CDA website.
  - o. Any other subsequent TEGs, memos, bulletins, or similar instructions issued during the term of this Agreement by DOL.
2. The Contractor shall, to the extent feasible, ensure that all budgeted funds are expended by the end of each fiscal year. [20 CFR 641.430(f)] [29 CFR 95.5] [29 CFR 97.40]
3. Develop methods of recruitment and selection that will assure the maximum number of eligible individuals the opportunity to participate in the program. [20 CFR 641.515(a)]

4. Provide an orientation to participants that include information on project goals and objectives; community service training assignments; training opportunities; available support services; the availability of a free physical examination; participant's rights and responsibilities; CDA Participant Termination Policy; CDA Grievance Policy; CDA Approved Break Policy; and permitted and prohibited political activities. [20 CFR 641.535(a)(1)] [20 CFR 641.570(d)] [CDA PM 11-06] [CDA PM 11-20]
5. Conduct individual assessments of the participants' work history; skills and interests; talents; physical capabilities; aptitudes; occupational preferences; need for supportive services; potential for performing proposed community service assignment duties; and potential for transition to unsubsidized employment. Assessments must be conducted no less frequently than two times during a 12-month period. [20 CFR 641.535(a)(2)]
6. Provide an Individual Employment Plan (IEP) for each participant based on an assessment. IEPs shall be developed in partnership with each participant and will reflect the needs as well as the expressed interests and desires of the participant. The initial IEP should include an appropriate employment goal for each participant. IEPs shall be updated as necessary to reflect information gathered during the participants' assessment. IEPs shall contain goals, action steps to achieve goals, and timelines to complete goals. [20 CFR 641.140] [20 CFR 641.535(a)(3)]
7. Provide or arrange for training for participants specific to their community service assignment or in support of their training needs identified in their IEP. [20 CFR 641.535(a)(5)(6)]
8. Submit all requests for an OJE to the Department for approval prior to exercising the OJE with any participants. OJE training is permitted with the same employer, but no more than five (5) times per year for the same job category [Older Worker Bulletin No. 04-04]
9. Obtain and record the personal information necessary for a proper determination of eligibility for all participants and maintain documentation supporting their eligibility. The income of each participant shall be recertified once every 12 months. Documentation records shall be maintained in a confidential manner. [20 CFR 641.505]
10. Cooperate with community, employment, and training agencies, including agencies under the WIA and provided through AJC, to provide services to low-income older workers. [20 CFR 641.200]
11. Participate in the development of the Title V SCSEP State Plan. Local activities must support the strategic focuses outlined in the Title V SCSEP State Plan. [20 CFR 641.315(a)]



12. Submit a SCSEP Project Quarterly Narrative Progress Reports to CDA each quarter using guidance distributed by CDA. [20 CFR 641.879(f)]
13. Follow-up with participants placed into unsubsidized employment to determine whether they are still employed and to make certain that participants receive any follow-up services they may need to ensure retention. [20 CFR 641.545(c)]
14. As mandated partner under the WIA, the Title V SCSEP Contractor must have a signed Memorandum of Understanding with the Local Workforce Investment Board(s) and the AJC(s) detailing how services will be provided. [20 CFR 662.200-300] [Public Law 113-128]
15. Execute a signed Memorandum of Understanding (MOU) between the Local Workforce Development Board(s) and the contractor detailing how services will be provided and identifying the contractor required shared infrastructure costs. [WIOA, Public Law 113-128]

The MOU must contain the following components:

- a. A description of the functions/services to be performed for AJC (One-Stop Center) clients.
- b. An explanation of how the costs of these functions/services and AJC (One-Stop Center) operations will be funded, including WIOA required shared contributions to infrastructure costs. Negotiated infrastructure costs must be captured on the contractor's budget under Administration or Program Other.
- c. A description of the methods to be used for referring clients among the partners.
- d. The duration of the MOU and procedures for amending it.

[29 U.S.C. 3151] [20 CFR 678.400 through 20 CFR 678.510]

16. Maintain an up-to-date Charter Oak Group (COG) Data Collection Handbook, BCT Partners Data Validation Handbook, and related departmental requirements so that all responsible persons have ready access to standards, policies, and procedures. [20 CFR 641.879(b)] [20 CFR 641.879(d)(e)]
17. Use the program data collection and reporting system as required in Exhibit D by the Department. [OAA Section 503(f)(3)(4)].
18. Submit all requests for a Transfer/Change utility transaction in SPARQ to the California Department of Aging for prior approval. [Title V SCSEP Data Collection Handbook rev. 7 (March 2017), Participant Form Guide (page 39, number 17)]

19. The Healthy Workplaces/Healthy Families Act of 2014 provides paid sick leave to all California employees who work for the same employer 90 or more days.

SCSEP program must:

1. Provide Participants with 24 hours of sick leave at the start of each program year, provided the participant(s) have been with SCSEP longer than 90 days
2. Unspent sick leave time will not be carried over to the following program year.
3. A participant is entitled to use paid sick days beginning on the 90<sup>th</sup> day of the training assignment.
4. Participants on sick leave are not permitted to participate in any trainings, workshops and/or meetings.
5. When a participant uses sick leave, the participant must record absent hours on that pay period's time sheet.

- B. The CONTRACTOR shall meet the annual negotiated Core Measures established by the U. S. Department of Labor, which include the following core measures: [OAA 513(b)(1)] [20 CFR 641.700(b)]

1. Hours of community service employment.
2. Percentage of project participants who are in unsubsidized employment during the second quarter after exit from project.
3. Percentage of project participants who are in unsubsidized employment during the fourth quarter after exit from project.
4. Median earnings of project participants who are in unsubsidized employment during the second quarter after exit from the project.
5. Indicators of effectiveness in serving employers, host agencies, and project participants.
6. The number of eligible individuals served.
7. The number of most-in-need individuals served.

- C. The K/T AAA shall perform the following:

1. Ensure all applicable provisions required within this Agreement are included in any subcontract entered into by the K/T AAA to carry out the terms of this Agreement.
2. Conduct an annual onsite monitoring to evaluate and document CONTRACTOR performance and compliance with this Agreement.
3. Provide training, support, and technical assistance to the Contractor as needed and respond in writing to all written requests from subcontractors for guidance and interpretation of instructions.

## EXHIBIT B: BUDGET DETAIL, PAYMENT PROVISIONS, AND CLOSEOUT

### ARTICLE I. FUNDS

#### A. Expenditure of Funds

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

##### In State:

- Mileage –  
<http://www.calhr.ca.gov/employees/Pages/travel-personal-vehicle.aspx>
- Per Diem (meals and incidentals) –  
<http://www.calhr.ca.gov/employees/Pages/travel-meals.aspx>
- Lodging –  
<http://www.calhr.ca.gov/employees/Pages/travel-lodging-reimbursement.aspx>

##### Out of State:

- <http://www.calhr.ca.gov/employees/Pages/travel-out-of-state.aspx>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by this Department, between the CalHR rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State. (CCR, Title 2, Section 599.615 et seq.)

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

3. The K/T AAA reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by the K/T AAA, to be: out of compliance with this Agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

#### B. Accountability for Funds

1. The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from

any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards [2 CFR 200]

2. Financial Management Systems

The Contractor shall meet the following standards for its financial management systems, as stipulated in 45CFR Section 92.2 (governmental) or 45 CFR, Section 74.21 (non-profits):

- a. Financial Reporting
- b. Accounting Records
- c. Internal Control
- d. Budgetary Control
- e. Allowable Costs
- f. Source Documentation
- g. Cash Management

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to the K/T AAA immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Agreement, or the dissolution of the entity.

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the Budget Acts of the appropriate fiscal years for the purpose of these programs. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.
3. Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this contract and approval of an itemized Senior Community Service Employment Program (Title V) Budget. No legal liability on the part of the State for any payment may arise under this contract until funds are made

available, the itemized budget is received and approved by the K/T AAA, and the Contractor has received an executed contract.

#### 4. Funding Reduction(s)

- a. If funding for any State fiscal year is reduced or deleted by the Legislature or Congress for the purposes of this program, the K/T AAA shall have the option to either:
  - Terminate the Contract pursuant to Exhibit C, Article XII.
  - Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.
- b. In the event that the K/T AAA elects to offer an amendment, it shall be mutually understood that (1) the K/T AAA reserves the right to determine which contracts, if any, under this program shall be reduced, and (2) some contracts may be reduced by a greater amount than others, and (3) that the K/T AAA shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

#### E. Program Income

1. Program income is income earned by the contractor during the contract period that is directly generated by an allowable activity supported by contract funds or earned as a result of the award of contract funds.
2. Program income includes income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced with contract funds.
3. Costs of generating program income may be deducted from gross income to determine program income earned provided these costs are not charged to contract funds.
4. Program income must be expended prior to drawing down additional funds as required in [2 CFR 200.305(b)(5)] and [2 CFR 200.307(e)]
5. Program income remaining at the end of the period of performance must be returned to CDA.

#### F. Recipient Local Share

Recipient Local Share (cash and/or in-kind) must be reported monthly, and shall be limited to:

1. Cash and/or in-kind contributions may count as match, if such contributions are used to meet program requirements.
2. Recipient Local Share (cash or in-kind) verifiable from the records of the Contractor or subcontractor.
3. Recipient Local Share used for allowable costs in accordance with the Code of Federal Regulations [2 CFR 200] and [2 CFR 2900].
4. On-the-Job Experience expenditures applied to wages and fringe benefits, other program costs, or administration, shall be identifiable in the Contractor's records.

## ARTICLE II. BUDGET AND BUDGET REVISION

- A. Senior Community Service Employment Program (Title V) Budget must be submitted, in accordance with the Budget Instruction Package, as issued by the Department, before the start of each fiscal year. The (Title V) Budget must correlate with Title V SCSEP activities and functions, stipulated within the annual Title V SCSEP Application.
- B. The budget must set forth in detail the reimbursable items, unit rates and extended total amounts for each line item. The Contractor's budget shall include, at a minimum, the following items when reimbursable under this Agreement:
  1. Personnel Costs – Monthly, weekly, or hourly rates, as appropriate and personnel classifications together with the percentage of time to be charged to this Agreement.
  2. Fringe Benefits
  3. Contractual Costs – subcontract and consultant cost detail.
  4. Indirect Costs
  5. Rent – specify square footage and rate.
  6. Supplies
  7. Equipment – detailed descriptions and unit costs.
  8. In State Travel – mileage reimbursement rate, lodging, per diem and other costs.
  9. Out of State Travel – any travel outside the State of California including mileage reimbursement rate, lodging, per diem and other costs
  10. Other Costs – A detailed list of other operating expenses.

- C. The contractor shall submit a budget, which shall be incorporated by reference into the this contract will have at a minimum, the categories listed in Section B. above.
- D. Indirect Costs
1. The maximum reimbursement amount allowable for indirect costs is ten percent (10%) of the Contractor's Modified Total Direct Costs (MTDC), excluding in-kind contributions and nonexpendable equipment.
  2. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate accepted by all Federal awarding agencies or an allocation plan documenting the methodology used to determine the indirect costs.
  3. Contractors with an approved indirect cost rate accepted by all Federal awarding agencies exceeding the ten percent (10%) maximum reimbursable may apply the difference as in-kind to meet minimum matching requirements, if applicable.
  4. For major Institutes of Higher Education and major nonprofit organizations, indirect costs must be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable).
- E. The Contractor shall submit electronically a budget revision by the due date specified by the K/T AAA with changes in funding levels.
- F. The Contractor may transfer contract funds between budget service categories under the following terms and conditions:
1. The Contractor shall submit a revised budget to the K/T AAA for any line item transfer of funds that does not exceed the Senior Community Service Employment Program (Title V) limits contained herein, and is not more that the total budget. Budget revisions may be submitted as necessary, but no later than (60) days prior to the ending date of the Contract.
  2. The Contractor shall maintain a written record of all budget changes and clearly document service category changes. The record shall include the date of the transfer, the amount, and the purpose. This record shall be available to the K/TAAA upon request and shall be maintained in the same manner as all other financial records.
- G. Administrative costs for the Contractor are not limited to 8% of the federal allocation and should be reported as project administration in the Title V budget.
- H. Consultant fees are limited to \$710 per day without prior DOL Grant approval.

- I. The Contractor shall ensure that of the total federal funds expended, not less than 79 percent shall be spent for Participant Wages and Fringe Benefits.
- J. The CONTRACTOR is not required to budget On-the-Job Experience (OJE) training costs separate from other costs; costs shall be tracked during the contract period in the CONTRACTOR's records.
- K. The CONTRACTOR may charge expenditures associated with participant assessment, training, job development, counseling functions, etc. to the Program Other category in the Title V Budget.
  - 1. Equipment/Property with a per unit cost between \$500 and \$4,999 requires justification and approval from the K/T AAA and must be included in the CDA 35 Title V/SCSEP Budget.
  - 2. Equipment/Property with a per unit cost of \$5,000 or more requires justification and approval from the Department of Labor. The contractor must submit a detailed description list to be included in the CDA 35 Title V/SCSEP Budget within 30 days of contract issuance date. [2 CFR 200.33] [2 CFR 200.313] and [2 CFR 200.439].

### ARTICLE III. PAYMENT

- A. The CONTRACTOR shall prepare and submit by the 10<sup>th</sup> of each month to the K/T AAA, in electronic format, a Monthly Expenditure Report/Request for Funds (CDA 29), unless otherwise specified by the K/T AAA.
- B. Funds shall be requested in the month following the month of reported services and expenditures.
- C. The K/T AAA shall review requests for payment to ensure consistency with the approved budget and service units reported.
- D. The K/T AAA may require financial reports more frequently than indicated above or with more detail (or both), upon written notice to the Contractor, until such time as the K/T AAA determines that the financial management standards are met.
- E. Advance payments will not be made.

### ARTICLE IV. CLOSEOUT

- A. The Financial Closeout Report and Report of Property Purchased with Agreement Funds shall be submitted annually to the K/T AAA. All reports are due in the format provided by the K/T AAA within 15 calendar days after the end of the fiscal year, unless otherwise specified by the K/T AAA. If a contract is terminated prior to the end



of the contract period, all reports are due within 30 calendar days following the termination date of the contract.

## EXHIBIT C: SPECIAL TERMS AND CONDITIONS

### ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

#### A. Definitions

1. “Agreement” or “Contract” shall mean the standard K/T AAA agreement, and all exhibits (if appropriate), amendments and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. “CDA” means the California Department of Aging.
3. “Contractor” means the legal entity that receives funds from the Area Agency on Aging under this Agreement.
4. “Subcontractor” or “vendor” means the legal entity that receives funds from the Contractor to provide direct services identified in this Agreement. “Subcontract” and/or “vendor agreement” means a subcontract and/or vendor agreement supported by funds from this Agreement.
5. “CCR” means California Code of Regulations.
6. “CFR” means Code of Federal Regulations.
7. “DUNS” means the nine-digit, Data Universal Numbering System number established and assigned by Dun and Bradstreet, Inc., to uniquely identify business entities.
8. “Cal. Gov. Code” means California Government Code.
9. “OMB” means the federal Office of Management and Budget.
10. “Cal. Pub. Con. Code” means the California Public Contract Code.
11. “Cal. Civ. Code” means California Civil Code
12. “Reimbursable item” also means “allowable cost” and “compensable item.”
13. “Vendor” means an entity selling goods or services to the Contractor or Subcontractor during the Contractor or Subcontractor’s performance of the Agreement.
14. “USC” means United States Code.

15. “HHS” means United States Department of Health and Human Services.
16. “OAA” means Older American Act.
17. “Allocation” means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives. (2 CFR 200.4 and 45 CFR 75.2)
18. “Disallowed costs” means those charges determined to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award. (2 CFR 200.31 and 45 CFR 75.2)
19. “Questioned Costs” means a cost that is questioned by the auditor because of an audit finding which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds; where the costs, at the time of the audit, are not supported by adequate documentation; or where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances. (2 CFR 200.84 and 45 CFR 75.2).
20. “Recoverable cost” means the state and federal share of the questioned cost.
21. ‘K/T AAA’ means Kings/Tulare Area Agency on Aging.

B. Resolution of Language Conflicts

The Contractor shall comply with all applicable program memos and other guidance issued by the CDA. In the event of conflict between the program memos and/or other CDA guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.

In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:

1. Standard K/T AAA Agreement and any amendments thereto;
2. General Scope of Work, Exhibit A;
3. Special terms and Conditions, Exhibit C;
4. Budget Detail, Payment Provisions and Closeout, Exhibit B, and Additional Provisions, Exhibit D, and
5. Any other documents incorporated herein by reference.

ARTICLE II. ASSURANCES

A. Law, Policy and Procedures, Licenses, and Certificates

The Contractor agrees to administer this Agreement in accordance with this Agreement, and with all applicable local, State, and Federal laws and regulations including, but not limited to, discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to this Agreement and resolve all issues using good administrative practices and sound judgment. The Contractor shall keep in effect all licenses, permits, notices, and certificates that are required by law.

B. Subcontracts

The Contractor shall require language in all subcontracts to require all subcontractors to comply with all applicable State and federal laws.

C. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC307) which is hereby incorporated by reference. In addition, Contractor shall comply with the following:

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

The Contractor shall ensure compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d; 45 C.F.R. Part 80), which prohibits recipients of Federal financial assistance from discriminating against persons of race, color, religion, or national origin.

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

The Contractor shall, unless exempted ensure compliance with the requirements of Ca. Gov. Code 11135, et seq., and 2 CCR 11140 et seq., which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. [22 CCR 98323]

3. California Civil Rights Laws

The Contractor shall, ensure compliance with the requirements of California Public Contract Code 2010 by submitting a completed California Civil Rights laws Certification, prior to execution of this Agreement. The certificate is available at: <http://www.dgs.ca.gov/ols/forms.aspx>

The California Civil Rights Laws Certification ensures Contract compliance with the Unruh Civil Rights Act (Cal. Civ. Code 51) and the Fair Employment and Housing Act (Cal. Gov. Code 12960), and ensures that Contractor internal policies are not used in violation of California Civil Rights Laws

4. The Contractor assures the K/T AAA that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. [42 U.S.C. Sections 12101 et seq.]
5. The Contractor agrees to include these requirements in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

D. Standards of Work

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

E. Conflict of Interest

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

F. Covenant Against Contingent Fees

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

G. Payroll Taxes and Deductions

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

H. Facility Construction or Repair

Funds from this Agreement are not allowed to be used for facility construction or repair.

I. Contracts in Excess of \$100,000

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

1. Clean Air Act, as amended (42 USC 1857).
2. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
3. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
4. State Contract Act [Cal. Pub. Con. Code 10295]
5. Unruh Civil Rights Act [Cal. Pub. Con. Code; 2010]

J. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors: [29 CFR 95.13] [29 CFR 97.35]
  - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
  - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - c. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification.
  - d. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.

2. Contractor shall report immediately to the K/T AAA in writing any incidents or alleged fraud and/or abuse by the Contractor or Contractor's subcontractor.
3. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the K/T AAA.
4. The Contractor agrees to timely execute any and all amendments to this Agreement or other required documentation relating to their subcontractors debarment/suspension status.

K. Agreement Authorization

1. If a public entity, the Contractor shall submit to the K/T AAA a copy of the resolution, order, or motion referencing this Agreement number authorizing execution of this Agreement. If a private nonprofit entity, the Contractor shall submit to the K/T AAA an authorization by the board of directors to execute this Agreement, referencing this Agreement number.
2. These documents must also identify the action taken.

L. Contractor's Staff

1. The Contractor shall maintain adequate staff to meet the Contractor's obligations under this Agreement.
2. This staff shall be available to the K/T AAA for training and meetings that the K/T AAA may find necessary from time to time.

M. Corporate Status

1. The Contractor shall be a public or private nonprofit entity or Joint Powers Agreement (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
3. Failure to maintain good standing by the contracting corporation or JPA shall result in suspension or termination of the Agreement with the K/T AAA until satisfactory status is restored. Failure to maintain good standing by the subcontracting corporation or JPA shall result in suspension or termination of the subcontract by the Contractor until satisfactory status is restored.

N. Lobbying Certification

The Contractor, by signing this Agreement, hereby 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 Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connections 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 federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connections with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit a Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including sub grants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all sub recipients shall certify and disclose accordingly.
  4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.
  5. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352.
  6. 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.
- O. The Contractor and its Subcontractor/Vendors shall comply with Governor's Executive Order 2-18-2011, which bans expenditures on promotional and marketing items colloquially known as "S.W.A.G." or "Stuff We All Get".

### ARTICLE III. AGREEMENT

A copy of this Agreement is on file and available for inspection at the Kings/Tulare Area Agency on Aging, 5957 S. Mooney Blvd, Visalia, California 93277.



#### ARTICLE IV. COMMENCEMENT OF WORK

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

#### ARTICLE V. SUBCONTRACTS OR VENDOR AGREEMENTS

- A. The Contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontracts and/or vendor agreements, and shall not delegate or contract these responsibilities to any other entity. This includes, but is not limited to, disputes, claims, protests of award, or other matters of a contractual nature.
- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX of this exhibit, for handling property in accordance with Article VII of this exhibit, and ensuring the keeping of, access to, availability, and retention of records of subcontractors in accordance with Article VI of the exhibit.
- C. Funds for this Agreement shall not be obligated in subcontracts and/or vendor agreements for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the K/TAAA has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, vendor agreements, Memoranda, and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of K/T AAA.
- F. The Contractor shall monitor the insurance requirements of its subcontractors and/or vendors in accordance with Article XI of this exhibit.
- G. The Contractor shall require language in all subcontractor and/or vendor agreements to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, vendors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may

be injured or damaged by the subcontractor and/or vendor in the performance of this Agreement.

- H. The Contractor shall ensure that the subcontractor and/or vendors will complete all reporting and expenditure documents requested by the K/T AAA. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the K/T AAA.
- I. Prior to the awarding of a subcontract to any for-profit entity, the Contractor shall submit the following to the K/T AAA for review and approval (per CCR, Title 22, Division 1.8, Section 7362):
  - 1. The RFP or IFB
  - 2. All bid proposals received
  - 3. The proposal or bid evaluation documentation, along with the Contractor's rationale for awarding the subcontract to a for-profit entity.

Where a program may be subcontracted to a for-profit organization, the Contractor should include in its contract with the for-profit entity a requirement for performance of a program specific audit of the subcontracted program by an independent audit firm.

- J. The Contractor shall require the subcontractor to maintain adequate staff to meet the subcontractor's Agreement with the Contractor. This staff shall be available to the K/T AAA for training and meetings that the K/T AAA may find necessary from time to time.
- K. If a private nonprofit corporation, the subcontractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
- L. The Contractor shall refer to 2 CFR 200.330, Subpart D – Subrecipient and Contractor Determinations and 45 CFR 75.351, Subpart D – Subrecipient and Contractor Determinations in making a determination if a subcontractor relationship exists. If such a relationship exists, then the Contractor shall follow the procurement requirements in the applicable OMB Circular.

## ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records, (which shall include, but not be limited to, accounting records, contracts, agreements, reconciliation of the "Final Closeout Report" to the audited financial Statements, letters of agreement, insurance documentation in accordance with this Article, Memoranda and/or Letters of Understanding, patient or client records, and electronic files) of its activities and expenditures hereunder in a form satisfactory to the K/T AAA and shall make all records pertaining to this Agreement available for inspection and audit by the K/T AAA or its duly authorized agents, at any time during normal business hours.

- B. All such records must be maintained and made available by the Contractor: (1) until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Audit Branch of the CDA, (2) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections A, and C of this Article, and (3) for such longer period as the CDA deems necessary.
- C. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A of this Article, above. The Contractor shall ensure that any resource directories and all client records remain the property of the K/T AAA upon termination of this Agreement, and are returned to the K/T AAA or transferred to another Contractor as instructed by the K/T AAA.
- D. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor.
- E. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the state under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures and guidelines set forth in 2 CFR 200.302 and 45 CFR 75.302., the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- F. After the authorized period has expired, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality.

## ARTICLE VII. PROPERTY

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

2. All computing devices, regardless of cost (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook computers, tablets, smartphones and cellphones).
  3. All portable electronic storage media, regardless of cost (including but not limited to, thumb/flash drives and portable hard drives).
- C. Additions, improvements, and betterments to assets meeting all of the above conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting improvements.
- D. Intangibles are property which lack physical substance but give valuable rights to the owner. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

The Contractor shall keep track of property purchased with funds from this agreement, and submit to the K/T AAA a Property Acquisition form (CDA 9023) for all property furnished or purchased by either the Contractor or the subcontractor with funds awarded under the terms of this Agreement, as instructed by the K/T AAA, the Contractor shall certify their reported property inventory annually with the Closeout by completing the Program Property Inventory Certification (CDA 9024).

The Contractor shall, at minimum, record the following information when property is acquired:

1. Date acquired
  2. Item description (include model number)
  3. CDA tag number or other tag identifying it as State of California property
  4. Serial number (if applicable)
  5. Purchase cost or other basis of valuation
  6. Fund source
- E. Disposal of Property

1. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement or any predecessor Agreement, the Contractor must obtain approval from the K/T AAA for all reportable property as defined in Section B of this Article. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the K/T AAA. The Contractor shall e-mail to the K/T AAA the electronic version of the Request to Dispose of Property (CDA 248). The K/T AAA will then instruct the Contractor on disposition of the property. Once approval for disposal has been received from the K/T AAA, and the K/T AAA has reported to CDA the Property Survey Report's (STD 152) Certification of Disposition, the item(s) shall be removed from the Contractor's inventory report.
  2. Contractor must remove all confidential, sensitive, or personal information from K/T AAA property prior to disposal, including removal or destruction of data on computing devices with digital memory and storage capacity. This includes, but is not limited to magnetic tapes, flash drives, personal computers, personal digital assistants (PDAs), cell or smart phones, multi-function printers, and laptops.
- F. Any loss, damage, or theft of equipment shall be investigated, fully documented and the Contractor shall promptly notify the K/T AAA
- G. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- H. The Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from the K/T AAA regarding the final disposition of the property.
- I. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the K/T AAA. The K/T AAA reserves the right to require the Contractor to transfer such property to another entity, or to the K/T AAA.
- J. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the K/T AAA will issue specific written instructions to the Contractor.
- K. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the K/TAAA for other purposes, in this order:
1. Another K/T AAA program providing the same or similar service.
  2. Another K/T AAA-funded program

- L. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the K/T AAA. As a condition of the approval, the K/T AAA may require reimbursement under this Agreement for its use.
- M. The Contractor or subcontractor shall not use equipment or supplies acquired under this Agreement with Federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.
- N. If purchase of equipment is reimbursable item, the equipment to be purchased will be specified in the Budget Summary.
- O. The Contractor shall include the provisions contained in this Article in all its subcontracts awarded under this Agreement

#### ARTICLE VIII. ACCESS

The Contractor shall provide access to the federal or state agency, California State Auditor, the Controller General of the United States, or any of their duly authorized federal or state representatives to any books, documents, papers, records, and electronic files of the Contractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. The Contractor shall include this requirement in its subcontracts.

#### ARTICLE IX. MONITORING AND EVALUATION

- A. Authorized K/T AAA representatives shall have the right to monitor and evaluate the Contractor's administrative, fiscal and program performance pursuant to this Agreement. Said monitoring and evaluation may include, but is not limited to, administrative processes, policies and procurement, audits, inspections of project premises, inspection of food preparation sites, and interviews of project staff and participants.
- B. The Contractor shall cooperate with the K/T AAA in the monitoring and evaluation processes, which includes making any administrative program and fiscal staff available during any scheduled process.
- C. The Contractor shall monitor contracts and subcontracts to ensure compliance with laws, regulations, and the provisions of contracts that may have a direct and/or material effect on each of its CDA funded programs.
- D. The Contractor is responsible for maintaining supporting documentation including financial and statistical records, contracts, subcontracts, or grant agreements monitoring

reports, and all other pertinent records until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the K/TAAA.

## ARTICLE X. AUDIT REQUIREMENTS

### A. General

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

### B. CDA Fiscal and Compliance Audits

1. The CDA Audits Branch shall perform fiscal and compliance audits of Contractors in accordance with Generally Accepted Government Auditing Standards (GAGAS) to ensure compliance with applicable laws, regulations, grants, and contract requirements.
2. The CDA fiscal and compliance audits may include, but not be limited to, a review of:
  - a. Financial closeouts (2 CFR 200.16 and 45 CFR 75.2)
  - b. Internal controls (2 CFR 200.303 and 45 CFR 75.303)

- c. Allocation of expenditures (2 CFR 200.4 and 45 CFR 75.2)
- d. Allowability of expenditures (2 CFR 200.403 and 45 CFR 75.403)
- e. Equipment expenditures and approvals, if required (2 CFR 200.439 and 45 CFR 75.439)

C. Single Audit Reporting Requirements (2 CFR 200 Subpart F and 45 CFR 75 Subpart F)

1. Contractor Single Audit Reporting Requirements

- a. Contractors that expend \$750,000 or more in Federal Awards will arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1966, Public Law 104-156, and Office of Management and 2 CFR 200.501 to 200.521 and 45 CFR 75.501 to 75.521. A copy shall be submitted to:

Kings/Tulare Area Agency on Aging  
5957 S. Mooney Blvd.  
Visalia, California 93277

- b. The copy shall be submitted within 30 days after receipt of the auditor's report or nine months after the end of the fiscal year audit period, whichever occurs first, unless a longer period is agreed to in advance by the cognizant or oversight agency.
- c. For purposes of reporting on the Schedule Expenditures of Federal Awards in the audit, the federal grantor is the U.S. Department of Labor, Employment and Training Administration. The Catalog of Federal Domestic Assistance Number is 17.235. The pass-through grantor is CDA.
- d. The Contractor will ensure that State-funded expenditures shall be separated out and specifically displayed along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" under the Catalog of Federal Domestic Assistance (CFDA) number 17.235.

- 2. The Contractor shall perform a reconciliation of the "Financial Closeout Report" to the audited financial statements. The reconciliation shall be maintained and made available for K/T AAA review.
- 3. The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this Agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements.
- 4. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR



200 and 45 CFR 75, Subparts F-Audit Requirements.

Contract Resolutions Includes:

- a. Ensuring that subcontractors expending \$750,000 or more in federal awards during the Subcontractor's fiscal year have met the audit requirements of 2 CFR 200.501 to 200.521 and 45 CFR 75.501 to 75.521.
  - b. Issuing a management decision on audit findings within six months after receipt of the subcontractor's single audit report and ensuring that the subcontractor takes appropriate and timely corrective action.
  - c. Reconciling expenditures reported to the K/T AAA to the amounts identified in the single audit or other type of audit, if the subcontractor was not subject to the single audit requirements. For a subcontractor who was not required to obtain a single audit and who did not obtain another type of audit, the reconciliation of expenditures reported to the K/T AAA must be accomplished through the performance of alternative procedures (e.g., expense verification reviews/fiscal monitoring assessments).
5. When alternative procedures are used, the Contractor shall perform financial management system testing per existing federal requirements [29 CFR 97.20] [29 CFR 95.21] which state in part that financial reporting must be accurate, current, and complete; and accounting records must adequately identify the source and application of funds and must be supported by source documentation.
- a. Accurate, current, and complete disclosure of the financial results of each federal award or program.
  - b. Records that identify adequately the source and application of funds for each federally funded activity.
  - c. Effective control over, and accountability for, all funds, property, and other assets to ensure these items are used solely for authorized purposes.
  - d. Comparison of expenditures with budget amounts for each federal award.
  - e. Written procedures to implement the requirements of 2 CFR 200.305 and 45 CFR 75.305.
  - f. Written procedures for determining the allowability of costs in accordance with 2 CFR Part 200 and 45 CFR Part 75, Subparts E – Cost Principles. [2 CFR 200.302 and 45 CFR 75.302]
  - g. The Contractor shall document system and expense testing to show an

acceptable level of reliability, including a review of actual source documents.

h. Determining whether the results of the reconciliations performed necessitate adjustment of the Contractor's own records.

6. The Contractor shall ensure that subcontractor single audit reports meet 2 CFR 200 and 45 CFR 75, Subparts F – Audit Requirements:
  - a. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within thirty (30) days after receipt of the Auditor's report or nine (9) months after the end of the audit period, whichever occurs first. [2 CFR 200.512 and 45 CFR 75.512].
  - b. Properly procured – use procurement standards for auditor selection. [2 CFR 200.509 and 45 CFR 75.509].
  - c. Performed in accordance with Generally Accepted Government Auditing Standards. [2 CFR 200.514 and 45 CFR 75.514].
  - d. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts; and the schedule of findings and questioned costs. [2 CFR 200.515 and 45 CFR 75.515].
7. Requirements identified in D of this Article shall be included in contracts/agreements with subcontractors. Further, the subcontractor shall be required to include language in its contracts with the independent auditor that require compliance with all applicable audit requirements/standards and allow K/T AAA access to all audit reports and supporting work papers and the K/T AAA has the option to perform additional work, as needed.
8. The Contractor shall have the responsibility of resolving audits of its subcontractors. Contractors shall prepare a summary worksheet of results from the audit resolutions performed for all subcontractors. The summary worksheet shall include, but not be limited to, contract amount; amount resolved; variances; whether an audit was relied upon or the Contractor performed an independent expense verification review (alternative procedures) of the subcontractor in making the determination; whether audit findings were issued, and if applicable issuance date of management letter; and any communication or follow-up performed to resolve the findings.
9. If the Contractor is not subject to single audit requirements in accordance with Section A of this Article, the K/T AAA must determine whether the Contractor expended the funds provided under this Agreement in accordance with

applicable laws and regulations. This may be accomplished by reviewing an audit of the Contractor or through other means (e.g., monitoring/expense verification reviews).

10. The K/T AAA shall have access to all audit reports of the Contractor and subcontractors and has the option to perform audits and/or additional work, as needed.
11. A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996, as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable [2 CFR § 200.425]:
  - a. Any costs when audits required by the Single Audit Act and [2 CFR Part 200, Subpart F Audit Requirements] have not been conducted or have been conducted but not in accordance therewith; and
  - b. Any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and [2 CFR Part 200, Subpart F Audit Requirements] because its expenditures under Federal awards are less than \$750,000 during the non-Federal entity's fiscal year.
    - (1) The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.
    - (2) Pass-through entities may charge Federal awards for the cost of agree-upon-procedures engagements to monitor subrecipient who are exempted from the requirements of the Single Audit Act and [2 CFR Part 200, Subpart F Audit Requirements]. The cost is allowable only if the agreed-upon procedures engagements are conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) attestation standards; paid for and arranged by the pass-through entity; and limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

D. The Contractor shall cooperate with and participate in any further audits that may be required by the state or K/T AAA.

## ARTICLE XI. INSURANCE

A. Prior to commencement of any work under this Agreement, the Contractor shall provide

for the term of this Agreement, the following insurance:

1. Coverage at least as broad as Commercial General Liability Insurance of \$1,000,000 combined single limit per occurrence. If the annual aggregate applies it must be no less than \$2,000,000.
  2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement.
  3. Workers' Compensation and Employer's Liability Insurance as required by law.
  4. Professional Errors and Omissions Insurance of \$1,000,000
- B. The Certificate of Insurance for General Liability and Comprehensive Automobile Liability Insurance must meet the following requirements:
1. Name K/T AAA and the County of Tulare, its officers, agents, employees and volunteers, individually and collectively, as additional insured by endorsement to the policy.
  2. State that such insurance for additional insureds shall apply as primary insurance and any other insurance maintained by K/T AAA and the County of Tulare shall be excess.
- C. The Certificate of Insurance for Workers Compensation should include the following:
1. Waiver of Subrogation. CONTRACTOR waives all rights against K/T AAA and the County of Tulare and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability by endorsement to the policy.
- D. The K/T AAA and the County of Tulare Risk Manager (or designee) must approve any deductible or self-insured retention that exceeds \$100,000.
- E. Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A(-) from a company admitted to do business in California. Any waiver of these standards is subject to approval by the K/T AAA and the County of Tulare Risk Manager (or designee).
- F. The insurance provided herein shall be in effect at all times during the term of this Agreement. Coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to K/T AAA and the County of Tulare, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the K/T AAA and the County of Tulare, at least thirty (30) days prior to the expiration date, a new certificate of

insurance evidencing insurance coverage as provided herein for a period not less than the remaining agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the K/T AAA may, in addition to other remedies it may have, terminate this Agreement.

- G. Contractor shall require its subcontractors or vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require its subcontractors and vendors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the K/T AAA, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.
- H. Prior to approval of this Agreement by the K/T AAA, the Contractor shall file with the K/T AAA and the County of Tulare, certificates of insurance with the original endorsements effecting coverage in a form acceptable to the K/T AAA. The K/T AAA and the County of Tulare reserves the right to require certified copies of all required insurance policies at any time.

## ARTICLE XII. TERMINATION

### A. Termination Without Cause

The K/T AAA may terminate performance of work under this Agreement in whole or in part, without cause, if the K/T AAA determines that a termination is in the K/T AAA's interest. The K/T AAA may terminate the Agreement upon 90 days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective 90 days from the delivery of the notice. The parties agree that if the termination of the contract is due to a reduction or deletion of funding by the Department of Finance, Legislature or Congress, the Notice of Termination shall be effective 30 days from the delivery of the notice. The Contractor shall submit to the K/T AAA a Transition Plan as specified in Exhibit D (Article IV). The parties agree that for the terminated portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void.

### B. Termination for Cause

The K/T AAA may terminate, in whole or in part, for cause the performance of work under this Agreement. The K/T AAA may terminate the Agreement upon 30 days written notice to the Contractor. The Notice of Termination shall be effective 30 days from the delivery of the Notice of Termination unless the ground for termination is due to the threat to life, health or safety of the public and in that case the termination shall take effect immediately. The Contractor shall submit to the Department a Transition Plan as specified in Exhibit D. The grounds for termination for cause will include but are not limited to the following:

1. In case of threat of life, health or safety of the public, termination of the Agreement shall be effective immediately
2. A violation of the law or failure to comply with any condition of this Agreement
3. Inadequate performance or failure to make progress so as to endanger performance of this Agreement
4. Failure to comply with reporting requirements
5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the K/T AAA or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor
8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income
9. The commission of an act of bankruptcy
10. Finding of debarment or suspension
11. The Contractor's organizational structure has materially changed
12. The K/T AAA determines that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 local government and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.

C. Contractor's Obligation After Notice of Termination

After receipt of a Notice of Termination; and except as directed by the K/T AAA, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:

1. Stop work as specified in the Notice of Termination.

2. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause).

D. Effective Date

Termination of this Agreement shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. The effective date for Termination with Cause or for funding reductions is 30 days and Termination without Cause is 90 days subsequent to written notice to the Contractor. The notice shall describe the action being taken by the K/T AAA, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the K/T AAA and the procedure for doing so.

E. Notice of Intent to Terminate by Contractor

In the even the Contractor no longer intends to provide services under this Agreement, the Contractor shall give the K/T AAA Notice of Intent to Terminate. Such notice shall be given in writing to the K/T AAA at least 180 days prior to the proposed termination date. Unless mutually agreed upon, the Contractor does not have the authority to terminate the Agreement. The notice of intent to terminate shall include the reason for such action and the anticipated last day of work. The contractor shall submit a Transition Plan in accordance with Exhibit D.

F. In the Event of a Termination Notice

The K/T AAA will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.

### ARTICLE XIII. REMEDIES

The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the K/T AAA as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

#### ARTICLE XIV. DISSOLUTION OF ENTITY

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

#### ARTICLE XV. REVISIONS, AMENDMENTS, OR MODIFICATIONS

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. The K/T AAA reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions, enacted by Congress or the Legislature or as directed by the Executive Branch of State Government.

#### ARTICLE XVI. NOTICES

- A. Any notice to be given hereunder by either party to the other may be affected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, or overnight mail, provided Contractor retains receipt, and shall be communicated as of actual receipt.
- B. Any notice given to the K/T AAA for a Contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the K/T AAA on the Contractor's Letterhead.
- C. All notices shall be addressed to the Kings/Tulare Area Agency on Aging, 5957 S. Mooney Blvd, Visalia, California 93277. Notices mailed to the Contractor shall be to the address indicated on the coversheet of this Agreement.
- D. Either party may change its address by written notice to the other party in accordance with this Article.

#### ARTICLE XVII. K/T AAA CONTACT

- A. The K/T AAA will provide the Contractor with the name of the K/T AAA's contact to request revisions, waivers, or modifications affecting this Agreement, upon full execution of this Agreement.
- B. The Contractor shall designate an individual to serve as the primary point of contact for K/T AAA. Contractor shall notify K/T AAA when the primary contact will be



unavailable/out of the office for one (1) or more workdays. Contractor or designee must respond to K/T AAA inquiries within two (2) K/T AAA business days.

## ARTICLE XVIII. INFORMATION INTEGRITY AND SECURITY

### A. Information Assets

The Contractor shall have in place operational policies, procedures, and practices to protect State information assets, including those assets used to store or access Personal Health Information (PHI), Personal Information (PI) and any information protected under the Health Insurance Portability and Accountability Act (HIPAA), (i.e., public, confidential, sensitive and/or personal identifying information) as specified in the State Administrative Manual, 5300 to 5365.3; Cal Gov. Code 11019.9, DGS Management Memo 06-12; DOF Budget Letter 06-34; and CDA Program Memorandum 07-18 Protection of Information Assets and the Statewide Health Information Policy Manual.

Information assets may be in hard copy or electronic format and may include (but are not limited to):

- Reports
- Notes
- Forms
- Computers, laptops, cellphones, printers, scanners
- Networks (LAN, WAN, WIFI) servers, switches, routers
- Storage media, hard drives, flash drives, cloud storage
- Data, applications, databases

### B. Encryption of Portable Computing Devices

The Contractor is required to use 128-Bit encryption for any data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, and notebook computers) and/or portable electronic storage media (including but not limited to, discs and thumb/flash drives, portable hard drives, and backup media).

### C. Disclosure

1. The Contractor shall ensure confidential, sensitive and/or personal identifying information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.
2. The Contractor shall protect from unauthorized disclosure, confidential, sensitive and/or personal identifying information such as names and other

identifying information, concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant.

3. "Personal Identifying information" shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristics assigned to the individual, such as finger or voice print or a photograph.
4. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
5. The Contractor shall not, except as otherwise specifically authorized or required by this Agreement or court order, disclose any identifying information obtained under the terms of this Agreement to anyone other than CDA without prior written authorization from CDA. The Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
6. The Contractor may allow a participant to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such blanket authorization from any participant.

D. Security Awareness Training

1. The Contractor must provide ongoing education and training, at least annually, to all employees and subcontractors who handle personal, sensitive or confidential information. The Contractor employees, subcontractors, and volunteers must complete the required Security Awareness Training module located at [www.aging.ca.gov](http://www.aging.ca.gov) within 30 days of the start date of the Contract/Agreement or within 30 days of the start date of any new employee, subcontractor or volunteer.
2. The Contractor must maintain certificates of completion on file and provide them to upon request. Training may be provided on an individual basis or in groups. A sign-in sheet is acceptable documentation for group training in lieu of individual certificates. If internet access is not available, a hardcopy of the training module may be provided to employees and/or volunteers for their completion.

E. Health Insurance Portability and Accountability Act (HIPAA)

The Contractor agrees to comply with the privacy and security requirements of HIPAA and ensure that Subcontractors/Vendors comply with the privacy and security requirements of HIPAA.

F. Security Incident Reporting

A security incident occurs when CDA information assets are or reasonably believed to have been accessed, modified, destroyed, or disclosed without proper authorization, or is lost, or stolen. The Contractor must comply with CDA's security incident reporting procedure located at <https://www.aging.ca.gov/ProgramsProviders/#Resources>

G. Security Breach Notifications

Notice must be given by the contractor or subcontractor to any data subject whose confidential, sensitive and/or personal identifying information could have been breached in accordance with HIPAA, the Information Practices Act of 1977, and State policy.

H. Software Maintenance

The Contractor shall apply security patches and upgrades in a timely manner and keep virus software up-to-date on all systems on which State data may be stored or accessed.

I. Electronic Backups

The Contractor shall ensure that all electronic information is protected by performing regular backup of automated files and databases, and ensure the availability of information assets for continued business. The Contractor shall ensure that all data, files and backup files are encrypted.

J. Provisions contained in this Article shall be included in all contracts of both the Contractor and its subcontractor/vendors.

## ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA

A. Copyrights

1. If any material funded by this Agreement is subject to copyright, the State and K/T AAA reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
2. The Contractor may request permission to copyright material by writing to the Director of the K/T AAA. The Director shall consent to or give the reason for denial to the Contractor in writing within sixty (60) days of receipt of the request.
3. If the material is copyrighted with the consent of the K/T AAA, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or

in part, and to authorize others to do so, provided written credit is given to the author.

4. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

B. Rights in Data

1. The Contractor shall not publish or transfer any materials, as defined in item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the K/T AAA. That consent shall be given, or the reasons for denial shall be given and any conditions under which it is given or denied, within thirty (30) days after the written request is received by the CDA. The CDA may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit Contractors from sharing identifying client information authorized by the participant or summary program information which is not client-specific.
2. As used in this Agreement, the term “subject data” means writings, sound recordings, pictorial reproductions, drawings, designs, or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration, or the exchange of that information between Area Agencies on Aging to facilitate uniformity of contract and program administration on a Statewide basis.
3. Subject only to the provisions of Article XVIII and Article XIX of this Exhibit, the K/T AAA may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and Federal law, all subject data delivered under this Agreement.
4. Materials published or transferred by Contractor shall: (a) state “The materials or product were a result of a project funded by a contract with the California Department of Aging”; (b) give the name of the entity, the address, and the telephone number at which the supporting data is available; and (c) include a Statement that “The conclusions and opinions expressed may not be those of the California Department of Aging and that the publication may not be based upon or inclusive of all raw data.”

ARTICLE XX. BILINGUAL AND LINGUISTIC PROGRAM SERVICES

[GC 11135-11139.5]

[Title 22 CCR Sections 98211, 98310-98314, 98324-98326, 98340-98370]

A. Needs Assessment

1. The Contractor will assist the K/T AAA in conducting a cultural and linguistic group-needs assessment of the eligible client population in the Contractor's service area to assess the language needs of the population and determine what reasonable steps are necessary to ensure meaningful access to services and activities to eligible individuals. (Title 22 CCR Section 98310, 98314)

The group-needs assessment shall take into account the following four factors:

- a. Number or proportion of limited English speaking persons (LEP) eligible to be served or likely to be encountered by the program.
- b. Frequency with which LEP individuals come in contact with the program.
- c. Nature and importance of the services provided.
- d. Local or frequently used resources available to the Contractor.

This group-needs assessment will serve as the basis for the Contractor's determination of "reasonable steps" and provide documentary evidence of compliance with Cal. Gov. Code 11135 et seq., and 22 CCR 89300 et seq.

2. The Contractor will assist the K/T AAA in preparing a report of the findings of the group-needs assessment that summarizes:
  - a. Methodologies used.
  - b. The linguistic and cultural needs of non-English speaking or LEP groups
  - c. Services proposed to address the needs identified and a timeline for implementation. (Title 22 CCR Section 98310)
3. The Contractor shall maintain a record of the group-needs assessment on file at the Contractor's headquarters at all times during the term of this Agreement. (Title 22 CCR Section 98310, 98313)

B. Provision of Services

1. Contractor shall take reasonable steps, based upon the group-needs assessment identified in subdivision A of this section, to ensure that "alternative

communication services” are available to non-English speaking or LEP beneficiaries of services under this Agreement [2 CCR 11162]

2. “Alternative communication services” include, but are not limited to, the provision of services and programs by means of the following:
  - a. Interpreters or bilingual providers and provider staff
  - b. Contracts with interpreter services
  - c. Use of telephone interpreter lines
  - d. Sharing of language assistance materials and services with other providers
  - e. Translated written materials, including but not limited to, enrollment information and descriptions of available services and programs
  - f. Referral to culturally and linguistically appropriate community service programs
3. Based on the findings of the group needs assessment, Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits. [2 CCR 11162]
4. The Contractor shall self-certify to compliance with the requirements of this section and shall maintain the self-certification record on file at the Contractor’s office at all times during the term of this Agreement. [Title 22 CCR 98310]
5. Contractor shall notify its employees of clients’ rights regarding language access and Contractor’s obligation to ensure access to alternative communication services where determined appropriate based upon the needs assessment conducted by Contractor. (Title 22 CCR Section 98370)
6. Noncompliance with this section may result in suspension or termination of funds and/or termination of the Agreement (Title 22 CCR Section 98370)

C. Compliance Monitoring

1. Contractor shall develop and implement policies and procedures for assessing and monitoring the performance of individuals and entities that provide alternative communication services to non-English and LEP clients. (Title 22 CCR Section 98310)

2. Contractor shall monitor, evaluate, and take effective action to address any needed improvement in the delivery of culturally and linguistically appropriate service. (Title 22 CCR Section 98310)
3. Contractor shall permit timely access to all records of compliance with this section. Failure to provide access to such records may result in appropriate sanctions. (Title 22 CCR Section 98314)

D. Notice to Eligible Beneficiaries of Contracted Services

1. Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. (Title 22 CCR Section 98325)
2. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the K/T AAA's procedure for filing a complaint and other information regarding the provisions of Government Code section 11135 et seq. (Title 22 CCR Section 98326)
3. Contractor shall notify the K/T AAA immediately of a complaint alleging discrimination based on a violation of State or federal law. [2 CCR 11162, 22 CCR 98310, 98340]

## EXHIBIT D: ADDITIONAL PROVISIONS

### ARTICLE I. ASSURANCES SPECIFIC TO THE TITLE V SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

- A. The Contractor shall assure that the following:
1. Services are provided only to the defined Eligible Service Population. [20 CFR 641.500]
  2. Participants enrolled in the Title V SCSEP shall receive at least the current State minimum wage or the prevailing local wage, whichever is higher, plus all fringe benefits required by law. All fringe benefits must be provided uniformly to all participants under a contractor or subcontractor. Participants must be paid for orientation, training, assessment, individual employment planning, and community service assignment work hours. [OAA § 502(c)(6)(A)] [OAA § 504(b)] [20 CFR 641.565]
  3. Participants shall be provided skill enhancement opportunities, personal and employment-related counseling, assistance in transition to unsubsidized employment, and other benefits. [20 CFR 641.535]
- B. The CONTRACTOR shall assure that the Title V SCSEP will serve the eligible service population and give priority to individuals who: are 65 years of age and older or (a) have a disability; (b) have limited English proficiency or low literacy skills; (c) reside in a rural area; (d) are veterans or spouses of veterans as defined in 20 CFR 641.520(a)(2); (e) have low employment prospects; (f) have failed to find employment after utilizing services provided through the AJC Delivery System; or (g) are homeless or at risk for homelessness. [OAA Section 518(G)] [20 CFR 641.710(a)(6)(xiii)]
- C. Develop and implement methods to recruit minority populations to ensure they are enrolled at least in proportion to their numbers in the population area. [OAA 515(c)]
- D. The CONTRACTOR will comply with an average participation cap for eligible individuals of no more than 27 months in the aggregate, unless requested and approved by the DOL. [OAA 502(b)(1)(C)] [CFR 641.570(c)]
- E. Community service assignments do not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals who are not Title V SCSEP participants. [OAA 502(b)(1)(G)] [20 CFR 641.844]
- F. The CONTRACTOR will follow CDA's Participant Termination Policy. [PM 11-20] [20 CFR 641.580] [20 CFR 641.910]
- G. The Contractor shall establish grievance procedures for resolving participant's



questions and complaints. In addition, the Contractor shall comply with all non-discrimination provisions related to Title V SCSEP funds. [20 CFR 641.827]; [20 CFR 641.910]; CDA PM 11-20 and CDA PM 11-06. The grievance procedure shall, in the case of:

1. Civil Rights violations, advise participants to submit their questions or file complaints with the Director, Civil Rights Center, U.S. Department of Labor, Room N-4123, 200 Constitution Avenue, N.W., Washington, D.C. 20210.
2. 2. Non-Civil Rights violations, advise participants who are not satisfied with the final determination of his/her grievance, to file an appeal with DOL within thirty (30) days of the determination. Said appeal shall be directed to Chief, Division of Adult Services, Employment and Training Administration, U.S. Department of Labor 200 Constitution Avenue, N.W., Washington, D.C. 20210.

#### H. Political Activities

The CONTRACTOR shall assure the following:

1. The contractor will post a notice at each training site and make available to each participant a written explanation of allowable and unallowable political activities in accordance to the OAA Section 502(b)(1)(P) and 20 CFR 641.836.
  2. Notices shall state that Title V SCSEP participants may engage freely in the political process with the following exceptions:
    - a. Participants may not engage in partisan or nonpartisan political activities during hours for which they are being paid with Title V SCSEP funds. [20 CFR 641.836(d)(1)].
    - b. Participants may not present themselves as a spokesperson for Title V SCSEP while engaged in political activity.
    - c. Participants may not be assigned to the office of a Member of Congress, a state or local legislator, or on any staff of a legislative committee.
- I. The CONTRACTOR shall have appropriate office space for conducting private participant interviews to enable participants to freely discuss their backgrounds and experiences in a confidential manner.
- J. The Contractor shall comply with CDA's Title V SCSEP Approved Break Policy. [20 CFR 570(d)]
- K. The Contractor shall ensure participants have safe and healthy working conditions at their community service employment worksites. [OAA §502(b)(1)(J) [20 CFR 641.535(a)(10)]

- L. Contractor acknowledges that CDA reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes:
1. The copyright in all products developed under this contract, including a subcontract.
  2. Any rights of copyright to which the Contractor or subcontractor purchases ownership under an award (including, but not limited to; curricula, training models, technical assistance products, and any related materials).
  3. Products developed in whole or in part with contract funds shall include the following language:
    - a. This product was funded by a contract awarded by CDA and the U.S. Department of Labor's Employment and Training Administration.
    - b. The product was created by the Contractor and does not necessarily reflect the official position of CDA and the U.S. Department of Labor.
    - c. No guarantees, warranties or assurances of any kind, express or implied are made with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership.
- M. The Contractor acknowledges that federal funds may not be expended for health benefits coverage that includes coverage of abortions, except where the abortion is due to a pregnancy that the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, including life-endangering physical conditions caused by or arising from the pregnancy itself that would, as certified by a physician, place the woman in danger or death unless an abortion is performed. This does not prohibit providing health benefits coverage for abortions when all funds for that specific benefit do not come from a federal source. Additionally, Contractor agrees that no federal funds may be provided to a local government if that local government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.
- N. Contractor agrees to comply with the Flood Disaster Protection Act of 1973, and will not use federal funds to acquire, modernize or construct property in flood-prone communities, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of identification.
- O. Contractor agrees that its employees and volunteers will not engage in severe forms of trafficking in persons during the period of time that the award is in effect, procure a commercial sex act, during the period of time that the award is in effect, use forced labor in performance of the Contract. This Agreement is subject to provisions protections act of 2000 and violations of this Article may result in termination of this Contract.

- P. Contractor agrees that work created with the support of federal funds shall be licensed under a Creative Commons Attribution 4.0 (CC BY) license. Work that must be licensed under the CC BY includes both new content created with federal funds and modifications made to pre-existing, recipient-owned content using grant funds. Notice of the license shall be affixed to the work.
- Q. Contractor acknowledges that CDA be required to maintain the currency of information in the Federal Awardee Performance and Integrity Information System (FAPIIS). Contractor agrees to submit the following information to K/T AAA within 30 days where in connection with the performance of this contract:
1. A criminal proceeding
  2. A civil proceeding that results in a monetary fine, penalty, reimbursement, restitution, or damages
  3. An administrative proceeding that results in monetary fine, penalty, reimbursement, restitution, of damages'
  4. Any other criminal, civil or administrative proceeding that could have resulted in a fine, penalty, reimbursement, restitution, or damages.
- R. Contractor agrees that the federal government shall have certain intellectual property rights in adherence with the Bayh-Dole Act (the Patent and Trademark Law Amendments Act), as codified at 37 CFR 401.3 and 401.14. These requirements describe the ownership of intellectual property rights and the government's nonexclusive, nontransferable, irrevocable, paid-up license to use any invention conceived or first actually reduced to practice in the performance of work under this grant.
- S. This agreement is subject to the requirement of the U.S Department of Labor (DOL)'s Senior Community Service Employment Program (SCSEP) grant Terms and Conditions and Assurances. By receiving funds under this agreement, the Contractor agrees that is will carry out the project/program as authorized and will comply with the terms and conditions and other requirements of this Agreement, including but not limited to:
1. U.S Department of Labor Training and uidance letter (TEGL) 17-17  
Contractor is bound by the authorizations, restrictions, and requirements contained in the U.S Department of Labor, Training nand Guidance Letter (TEGL) 17-17, SCSEP Planning instructions and Allocations.
  2. Prohibition on Procuring Goods Obtained Through Child Labor  
No funds may be obligated or expended for the procurement of goods mined, produce, manufactured, or harvested or services rendered, in whole or in part by forced labor in industries identified by DOL. (Public Law 115-31, Division H, Title I, Section 103)

## ARTICLE II. REPORTING

[OAA 503(f)(3)(4)] [20 CFR 641.879]

- A. The CONTRACTOR shall:
1. Input program and participant data into SPARQ using the Web-Based Data Collection System (WCDS) on a routine basis.
  2. The Contractor must review and continually seek to clear errors in the WDCS and the data must be timely, complete, accurate, and verifiable.
  3. Create a plan to ensure accuracy of data from all levels which includes a method for the Contractor to verify the accuracy of the data prior to submission.
  4. Train and orient staff on data collection and reporting requirements.
- B. The Contractor shall review DOL CMS weekly, in accordance with DOL requirements to ensure accuracy of data entry into the WDCS.
- C. The CONTRACTOR shall review Data Quality Reports (DQRs) monthly, in accordance with DOL requirements to ensure accuracy of data inputted into the WCDS.
- D. The contractor shall submit a Corrective Action Plan describing the actions to be taken to achieve the performance goals if the project did not achieve the established performance goals in the previous fiscal year. [20 CFR 641.740(b)]
- E. The Contractor shall submit Title V SCSEP Project Quarterly Narrative Progress Report to CDA each quarter using guidance distributed by CDA. [20 CFR 641.879(f)]

### ARTICLE III. APPEAL PROCESS

In the event of a Contract dispute or grievance regarding the terms and conditions of this Contract both parties shall abide by the following procedures:

- A. If the CONTRACTOR disputes the administration of this Agreement, either fiscal or nonfiscal, the CONTRACTOR shall appeal the dispute to the Director of the K/T AAA. If the CONTRACTOR is not satisfied with the decision of the Director, the CONTRACTOR can appeal to the Governing Board. If the CONTRACTOR is not satisfied with the decision of the Governing Board, the CONTRACTOR can use the appeal procedure established by the Department in Title 22 CCR, Sections 7700 through 7710. Unless the Department notifies the CONTRACTOR of a different stated time, the CONTRACTOR shall file an appeal within thirty (30) days of the Governing Board's decision.
- B. Any dispute regarding an existing direct service contract or the procurement of the direct service contract shall be resolved locally, consistent with W&I Code Section 9535(k), and as specified in the procurement documents and contracts of the CONTRACTOR. Direct service contracts include all Community-Based Services Programs as defined in W&I Code Section 9540-9547.

- C. Costs incurred by the Contractor or subcontractor for administrative or court review are not reimbursable.

#### ARTICLE IV. SCSEP TRANSITION PLAN

- A. The Contractor shall submit a transition plan to the K/T AAA within 15 business days of delivery of a written Notice of Termination by K/T AAA or Notice of Intent to Terminate by the Contractor. The transition plan must be approved by the K/T AAA and shall at a minimum include the following:
  - 1. A process on how participants will be notified of program closure, reduction of slots, or change in service provider.
  - 2. A process on how confidential records of participants and database files will be relinquished by the CONTRACTOR and transferred to the new service provider.
  - 3. A process to communicate with National Title V SCSEP grantees to transfer current participants into other employment/training opportunities.
  - 4. A process on how supportive services will be identified and provided to participants to ease in the transition.
  - 5. A process to conduct a property inventory and plan to dispose or transfer, or return to the K/T AAA all equipment purchased during the entire operation of the contract.
  - 6. A description of adequate staff to provide continued service through the term of the existing contract. [Title 22 7206(e)(4)]
- B. The Contractor shall implement the transition plan as approved by the K/T AAA. The K/T AAA will monitor the Contractor's progress in carrying out all elements of the transition plan.
- C. If the Contractor fails to provide and implement a transition plan as required by Article XII of Exhibit C of this Agreement, the Contractor shall implement a transition plan submitted by the K/T AAA to the Contractor following the Notice of Termination.

## EXHIBIT E: HIPAA REQUIREMENT

(Update version 04/09/13)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA)

- A. Definitions: Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.
1. **Business Associate** shall mean CONTRACTOR.
  2. **Covered Entity** shall mean K/T AAA (Kings/Tulare Area Agency on Aging).
  3. **Individual** shall have the same meaning as the term “individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
  4. **Privacy Rule** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
  5. **Protected Health Information** shall have the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
  6. **Required by Law** shall have the same meaning as the term “required by law” in 45 CFR 164.501.
  7. **Secretary** shall mean the Secretary of the Department of Health and Human Services or his designee.
- B. Obligations and Activities of CONTRACTOR
1. CONTRACTOR agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
  2. CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
  3. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information by CONTRACTOR in violation of the requirements of this Agreement.
  4. CONTRACTOR agrees to report to K/T AAA any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.

5. CONTRACTOR agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by CONTRACTOR on behalf of K/T AAA agrees to the same restrictions and conditions that apply through this Agreement to CONTRACTOR with respect to such information. CONTRACTOR agrees to provide access, at the request of K/T AAA, and in the time and manner requested by K/T AAA, to Protected Health Information in a Designated Record Set, to K/T AAA or, as directed by K/T AAA, to an Individual in order to meet the requirements under 45 CFR 164.524.
6. CONTRACTOR agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the K/T AAA directs or agrees to pursuant to 45 CFR 164.526 at the request of K/T AAA or an Individual, and in the time and manner requested by K/T AAA.
7. CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by CONTRACTOR on behalf of, K/T AAA to the K/T AAA, in a time and manner requested by K/T AAA for purposes of determining CONTRACTOR'S and/or K/T AAA'S compliance with the Privacy Rule.
8. CONTRACTOR agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for K/T AAA to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
9. CONTRACTOR shall provide to K/T AAA or an individual, in time and manner designated by K/T AAA, information collected in accordance with Title 45, CFR, Section 164.528, to permit the Department to respond to a request by the individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528

C. General Use and Disclosure Provisions:

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, K/T AAA, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by K/T AAA or the minimum necessary policies and procedures of the K/T AAA.

D. Specific Use and Disclosure

1. Except as otherwise limited in this Agreement, CONTRACTOR may use Protected Health Information for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

2. Except as otherwise limited in this Agreement, CONTRACTOR may disclose Protected Health Information for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.
3. Except as otherwise limited in this Agreement, CONTRACTOR may use Protected Health Information to provide Data Aggregation services to K/T AAA as permitted by 42 CFR 164.504(e)(2)(i)(B).
4. CONTRACTOR may use Protected Health Information to report violations of law to appropriate Federal and State authorities consistent with § 164.502(j)(1)

E. Obligations of K/T AAA

1. K/T AAA shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of K/T AAA in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR'S use or disclosure of Protected Health Information.
2. K/T AAA shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect CONTRACTOR'S use or disclosure of Protected Health Information.
3. K/T AAA shall notify CONTRACTOR of any restrictions to the use or disclosure of Protected Health Information that K/T AAA has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of Protected Health Information.

F. Permissible Requests by K/T AAA:

Except as otherwise provided herein, K/T AAA shall not request CONTRACTOR to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by K/T AAA

G. Miscellaneous

1. *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
2. *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for K/T AAA to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-191.



3. *Survival.* The respective rights and obligations of CONTRACTOR under this Exhibit shall survive the termination of this Agreement.
4. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit K/T AAA to comply with the Privacy Rule.

**EXHIBIT F: CONTRACT AWARD AND GOALS**

**TOTAL FUNDING AWARD: \$84,295**

<b>Core Performance Measure</b>	<b>Description</b>	<b>Goal</b>
Service Level	The number of participants who are active on the last day of the reporting period or who exited during the reporting period divided by the number of modified community service positions	150%
Community Service	The number of hours of community service in the reporting period divided by the number of hours of community service funded by the grant minus the number of paid training hours in the reporting period	77.5%
Service to Most in Need	Average number of barriers per participant. The total number of the following characteristics: severe disability, frail; age 75 or older, old enough for but not receiving SS Title II, severely limited employment prospects and living in an area of persistent unemployment, limited English proficiency, low literacy skills, disability, rural, veterans, low employment prospects, failed to find employment after using WIA Title I, and homeless or at risk of homelessness divided by the number of participants who are active on the last day of the reporting period or who exited during the reporting period	2.79
Common Measures Employment Rate – 2nd Quarter after Exit	The number of participants employed in the second quarter after the exit quarter divided by the number of participants who exited two quarters earlier	30.4% (Target)
Common Measures Employment Rate – 4th Quarter after Exit	The number of participants employed in the fourth quarter after the exit quarter divided by the number of participants who exited four quarters earlier	27.0% (Target)
Common Measures Median Earnings	Of those participants who are employed in the second quarter after the quarter of program exit, the median value of earnings in the second quarter after the exit quarter	3614 (Target)
Effectiveness in serving employers, participants and host agencies	Average annual ACSI for employers	85.8%
	Average annual ACSI for participants	85.9%
	Average annual ACSI for host agencies	84.9%



**EXHIBIT G: EXPENDITURE REPORT AND REQUEST FOR FUNDS**

STATE OF CALIFORNIA  
 CALIFORNIA DEPARTMENT OF AGING  
**TITLE V/SCSEP EXPENDITURE REPORT**  
 CDA 29 (REV 06/2018)

		Invoice #:			FI\$Cal PO#:			
PSA#:	Fiscal Year:	Contract No: TV- -			Invoice Date:			
<b>EXPENDITURES</b>		Month:			Year:			
Funding Source	CONTRACTOR ADMINISTRATION			PROGRAM OTHER			PWFB	TOTAL
	General Costs	Indirect Costs	Total Admin	Subcontr. Admin	Program Other	Total Program Other	PWFB	Total Program and Admin
Total Expenditures								
Recipient Local Share Cash								
Recipient Local Share In-Kind								
Program Income								
Federal Share								
Project Code	TVAL			TVOL			TVFL	
<i>Complete quarterly accruals when submitting September, December, March, and June expenditures.</i>								
<b>ACCRUALS</b>	July-Sept			Oct-Dec		Jan-Mar		Apr-Jun
Quarterly Federal Accruals	CONTRACTOR ADMIN			PROGRAM OTHER			PWFB	TOTAL
Project Code	TVAL			TVOL		TVFL		
<b>FOR STATE USE ONLY</b>								

Program Fiscal Team Analyst:	Date:	Program Fiscal Team Manager:	Date:
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