



CONTRACT NO. 20-27-0044

FOR THE PROVISION OF

HEALTH INSURANCE COUNSELING ADVOCACY PROGRAM (HICAP),
FINANCIAL ALIGNMENT (FA), AND MEDICAL IMPROVEMENT FOR PATIENTS AND
PROVIDERS ACT (MIPPA) SERVICES

BETWEEN

COUNTY OF ORANGE

AND

COUNCIL ON AGING – SOUTHERN CALIFORNIA

<u>CFDA#</u>	<u>FAIN#</u>	<u>PROGRAM/SERVICE TITLE</u>	<u>FUNDING AGENCY</u>
93.324	Pending	State Health Insurance Assistance Program (SHIP)	U.S. Dept. of Health and Human Services, Administration for Community Living
93.626	Pending	Affordable Care Act (ACA) State Health Insurance Assistance Program (SHIP), and Aging and Disability Resource Center (ADRC) Options Counseling for Medicare-Medicaid Individuals in States with Approved Financial Alignment	U.S. Dept. of Health and Human Services, Administration for Community Living
93.071	Pending	Medicare Enrollment Assistance Program	U.S. Dept. of Health and Human Services, Administration for Community Living

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ATTACHMENTS

Attachment A - Scope of Services
Attachment B - Payment/Compensation
Attachment C - Budget Schedule
Attachment D - Staffing Plan
Attachment E - Performance Standards
Attachment F – Federal Award Identification
Attachment G – MIPPA Work Plan

EXHIBITS

Exhibit 1 – Drug Free Workplace Certification
Exhibit 2 – Debarment and Suspension Certificate
Exhibit 3 – Certification Regarding Lobbying
Exhibit 4 – Disclosure Form to Report Lobbying
Exhibit 5 – OC Community Resources Contract Reimbursement Policy
Exhibit 6 - Office on Aging Focal Points

Contract No. 20-27-0044
with
Council on Aging – Southern California
for
Health Insurance Counseling Advocacy Program (HICAP), Financial Alignment (FA), and Medical
Improvement for Patients and Providers Act (MIPPA) Services

This Contract No. 20-27-0044 for HICAP-FA-MIPPA Services (hereinafter referred to as “Contract”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California; hereinafter referred to as “County” and Council on Aging – Southern California, D-U-N-S No. 053284159, a California non-profit corporation, with a place of business at 2 Executive Circle, Irvine, CA 92614 (hereinafter referred to as “Subrecipient”), with a County and Subrecipient sometimes referred to as “Party” or collectively as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

- Attachment A – Scope of Services
- Attachment B – Payment/Compensation
- Attachment C – Budget Schedule
- Attachment D – Staffing Plan
- Attachment E - Performance Standards
- Attachment F – Federal Award Identification
- Attachment G – MIPPA Work Plan
- Exhibit 1 – Drug Free Workplace Certification
- Exhibit 2 – Debarment and Suspension Certificate
- Exhibit 3 – Certification Regarding Lobbying
- Exhibit 4 – Disclosure Form to Report Lobbying
- Exhibit 5 – OC Community Resources Contract Reimbursement Policy
- Exhibit 6 - Office on Aging Focal Points

RECITALS

WHEREAS, Subrecipient and County are entering into this Contract for HICAP-FA-MIPPA under a cost reimbursement Contract; and

WHEREAS, County solicited Contract for County of Orange Aging Program Services as set forth herein, and Subrecipient represented that it is qualified to provide HICAP-FA-MIPPA Services to the County as further set forth herein; and

WHEREAS, Subrecipient agrees to provide HICAP-FA-MIPPA Services to the County as further set forth in the Scope of Service, attached hereto as Attachment A; and

WHEREAS, County agrees to pay Subrecipient based on the schedule of fees set forth in Payment/Compensation, attached hereto as Attachment B; and

WHEREAS, Subrecipient agrees to manage allotted funding set forth in the Budget Schedule, attached hereto as Attachment C; and

WHEREAS, Subrecipient agrees to provide staff set forth in Staffing Plan, attached hereto as Attachment D; and

WHEREAS, Subrecipient agrees to meet the Performance Standards requirements set forth in attached hereto as Attachment E; and

WHEREAS, Subrecipient agrees to meet the MIPPA Work Plan requirements set forth in attached hereto as Attachment G; and

WHEREAS, the County Board of Supervisors has authorized the OC Community Resources Director or his designee to enter into a Contract for HICAP-FA-MIPPA Services with the Subrecipient to carry out certain program services and activities for the Fiscal Year FY 2020-2021.

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

“Administrator” means the Executive Director, Orange County Office on Aging (“OoA” or “Office on Aging”), the designated Area Agency on Aging for Orange County, or designee thereof.

“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)

“County’s Contract Administrator” means the Contract Manager who shall administer this Contract as is necessary or reasonable to comply with County policies.

“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)

“DUNS Number:” A unique 9-digit identifier issued and maintained by Dun & Bradstreet (D&B) that verifies the existence of a business entity. The DUNS number is needed to coordinate with the System for Award Management (SAM) that combines federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. <https://www.SAM.gov>.

“Information & Assistance (I&A)” means the function of the Office on Aging that refers older adults to appropriate service and assistance agencies in Orange County.

“Program Income” means revenue generated by the Subrecipient or the Subcontractor from contract-supported activities and may include voluntary contributions received from a participant or other party for services received, income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Contract, royalties received on patents and copyrights from contract-supported activities, or proceeds from the sale of goods created under a California Department of Aging (“CDA”) grant funds.

“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).

“Recoverable cost” means the state and federal share of the questioned cost.

“Subcontractor” and “subcontractor” means any entity that furnishes to Subrecipient services or supplies related to this Contract.

ARTICLES

General Terms and Conditions:

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. **Entire Contract:** This Contract contains the entire Contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Contract Administrator.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Intentionally left blank**
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Subrecipient's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. **Acceptance Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Subrecipient expressly warrants that the services covered by this Contract are fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Subrecipient's part to indemnify, defend and hold County and County Indemnitees as identified in Paragraph Z below, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders,

or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Subrecipient shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Subrecipient warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Subrecipient agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Subrecipient without the express written consent of County. Any attempt by Subrecipient to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Subrecipient agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Subrecipient acknowledges that a violation of this provision shall subject Subrecipient to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty, cost, expense or liability of any kind for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Subrecipient. Exercise by County of its right to terminate the Contract for cause or without cause shall relieve County of all further obligation, cost, expense or liability of any kind.
1. Termination for cause includes, among other things, the County's termination of the Contract in the event of:
 - i. A violation of the law or failure to comply in a timely manner with any condition of this Contract;
 - ii. Inadequate program performance;
 - iii. Failure to comply with reporting requirements;
 - iv. Evidence that Subrecipient is in such an unsatisfactory financial condition, as determined by County, as to endanger performance of this Contract, including the loss of other funding sources;
 - v. Delinquency in payment of taxes or the costs of performance of this Contract in the ordinary course of business;

- vi. Appointment of a trustee, receiver or liquidator for all or a substantial part of Subrecipient's property, or institution of bankruptcy, reorganization, arrangement of liquidation proceedings by or against Subrecipient;
- vii. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against Subrecipient's assets or income;
- viii. Bankruptcy proceedings of Subrecipient;
- ix. Finding of debarment or suspension;
- x. Material change in Subrecipient's organizational structure;
- xi. Any breach of Contract,
- xii. Any misrepresentation, or fraud on the part of the Subrecipient;

County may terminate this Contract and be relieved of the payment of any compensation to Subrecipient.

In the event of such termination, County may proceed with the work for which this Contract provides in any manner deemed proper by County. The cost to County of completing the work for which this Contract provides shall be deducted from any sums due Subrecipient under this Contract but Subrecipient shall not be relieved of liability. Notwithstanding the above, Subrecipient shall not be relieved of liability to County for damages sustained by County by virtue of any breach of this Contract by Subrecipient, and County may withhold any payments to Subrecipient until such time as the exact amount of damages due County from Subrecipient is determined.

2. Termination for convenience. County may terminate this Contract, without cause, upon thirty (30) days written notice to Subrecipient, except County may terminate this Contract for failure of any of the funding contingencies set forth in Paragraph BB, Contingency of Funds, upon ten (10) days written notice to Subrecipient.
 3. Return of funds. Subrecipient agrees that upon expiration or notice of termination of this Contract or dissolution of Subrecipient's entity, Subrecipient shall, immediately upon written demand, return to County all funds paid to Subrecipient by County, which are not payable for goods or services delivered prior to the termination or expiration of this Contract or the dissolution of Subrecipient's entity.
 4. Cancellation of commitments/termination claim. After receipt of notice of termination, Subrecipient shall cancel outstanding commitments required by this Contract.
 - i. With respect to the above-cancelled commitments, Subrecipient agrees to provide, within ten (10) days of a notice of termination, a plan for settlement of all outstanding liabilities and all claims arising out of such cancellation of commitments. Such plan shall be subject to the approval of Administrator.
 - ii. Subrecipient shall submit a termination claim to Administrator promptly after receipt of a notice of termination, but in no event later than sixty (60) days from the effective date thereof unless an extension, in writing, is granted by Administrator.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the

other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

- M. **Independent Subrecipient:** Subrecipient shall be considered an independent contractor and neither Subrecipient, its employees, nor anyone working under Subrecipient shall be considered an agent or an employee of County. Neither Subrecipient, its employees nor anyone working under Subrecipient shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Subrecipient shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Subrecipient shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Subrecipient under this Contract. Subrecipient shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Subrecipient shall be fully responsible for all work performed by subcontractors.

O. **Insurance Requirements:**

Prior to the provision of services under this Contract, the Subrecipient agrees to purchase all required insurance at Subrecipient's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Subrecipient agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Subrecipient pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Subrecipient.

Subrecipient shall ensure that all subcontractors performing work on behalf of Subrecipient pursuant to this Contract shall be covered under Subrecipient's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Subrecipient. Subrecipient shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Subrecipient under this Contract. It is the obligation of Subrecipient to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Subrecipient through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Subrecipient's current audited financial report. If Subrecipient's SIR is approved, Subrecipient, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Subrecipient's, its agents, employee's or

subcontractor's performance of this Contract, Subrecipient shall defend the County at its sole cost and expense with counsel approved by Board of supervisors against same; and

- 2) Subrecipient's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Subrecipient's SIR provision shall be interpreted as though the Subrecipient was an insurer and the County was the insured.

If the Subrecipient fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Subrecipient shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims-made
Professional Liability	\$1,000,000 per claims-made \$1,000,000 aggregate
Sexual Misconduct	\$1,000,000 per occurrence
Employee Dishonesty	\$100,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange its elected and appointed officials, officers, agents and employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN Contract.**
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Subrecipient's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the *County of Orange, its elected and appointed officials, officers, agents and employees* as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Subrecipient's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN Contract.**

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

Subrecipient shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Subrecipient's Professional Liability and Network Security & Privacy Liability are "Claims-Made" policy(ies), Subrecipient shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Subrecipient fails to provide the insurance certificates and endorsements within seven (7) days of notification by the Contract Administrator, award may be made to the next qualified vendor.

County expressly retains the right to require Subrecipient to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Subrecipient in writing of changes in the insurance requirements. If Subrecipient does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Subrecipient, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Subrecipient's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. **Changes:** Subrecipient shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. **Change of Ownership/Name, Litigation Status, Conflicts with County Interest:** Subrecipient agrees that if there is a change or transfer in ownership of Subrecipient's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other instruments of transfer to assume Subrecipient's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Subrecipient has the duty to notify the County in writing of any change in the Subrecipient's status with respect to name changes that do not require an assignment of the Contract. The Subrecipient is also obligated to notify the County in writing if the Subrecipient becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Subrecipient's performance under the Contract, as well as any potential conflicts of

interest between Subrecipient and County that may arise prior to or during the period of Contract performance. While Subrecipient will be required to provide this information without prompting from the County any time there is a change in Subrecipient's name, conflict of interest or litigation status, Subrecipient must also provide an update to the County of its status in these areas whenever requested by the County.

The Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Subrecipient, this obligation shall apply to the Subrecipient's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Subrecipient's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. **Force Majeure:** Subrecipient shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Subrecipient gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Subrecipient avails himself of any available remedies.
- S. **Confidentiality:** Subrecipient agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Subrecipient and Subrecipient's staff, agents and employees.
- T. **Compliance with Laws:** Subrecipient represents and warrants that services to be provided under this Contract shall fully comply, at Subrecipient's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Subrecipient acknowledges that County is relying on Subrecipient to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Subrecipient agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **Intentionally left blank**
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.

- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
- Y. **Employee Eligibility Verification:** The Subrecipient warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Subrecipient shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Subrecipient shall retain all such documentation for all covered employees for the period prescribed by the law. The Subrecipient shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, and its County Indemnitees, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Subrecipient or the County or County Indemnitees, any combination of the three in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. **Indemnification:** Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Subrecipient, its agents, employees, affiliates or subcontractors, pursuant to this Contract. If judgment is entered against Subrecipient and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Subrecipient and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
- AA. **Audits/Inspections:** Subrecipient agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Subrecipient for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Subrecipient's records before final payment is made.

Subrecipient agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Subrecipient agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Subrecipient agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Subrecipient cease to exist as a legal entity, the Subrecipient's records pertaining to this Contract shall be forwarded to the County's Project Manager.

- BB. Contingency of Funds:** Subrecipient acknowledges that funding or portions of funding for this Contract may be contingent upon State or Federal budget approval; receipt of funds from, and/or obligation of funds by, the State of California or Federal government to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may terminate upon ten (10) days written notice or modify this Contract without penalty.
- CC. Expenditure Limit:** The Subrecipient shall notify the County of Orange assigned Contract Administrator in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a written and approved change order to cover those costs has been issued. Board of Supervisor approval may be required.

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Additional Terms and Conditions:

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure HICAP-FA-MIPPA Services from Subrecipient as further detailed in the Scope of Work, identified and incorporated herein by this reference as Attachment A.
2. **Term of Contract:** This Contract shall commence on July 1, 2020 and continue through June 30, 2021 for twelve (12) months, unless otherwise terminated by the County.
3. **Renewal:** This Contract may be renewed by mutual written agreement of both Parties for three (3) additional one (1) year terms. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors. The costs for any renewal periods shall be substantially similar to the initial term of the Contract and continue to be reasonable and necessary for all renewals. In connection with a possible renewal, the County shall have the right to consider Subrecipient's actual expenditures, the units of service, the current cost policy standards, and changes in program requirements, and Subrecipient shall, upon the County's request, promptly provide to the County all documentation related to such items.
4. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
5. **Maximum Obligation:** The total Maximum Obligation of County to the Subrecipient for the cost of services provided in accordance with this Contract is \$549,056, with individual Maximum Obligation budgets for each Fiscal Year as further detailed in the Budget Schedule, identified and incorporated herein by this reference as Attachment C.
6. **Amendments – Changes/Extra Work:** The Subrecipient shall make no changes to this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County has the discretion with the Subrecipient's concurrence, to make changes at any time without changing the scope or price of the Contract.

If County-initiated changes or changes in laws or government regulations affect price, the Subrecipient's ability to deliver services, or the project schedule, the Subrecipient will give County written notice no later than ten (10) days from the date the law or regulation went into effect or the date the change was proposed and Subrecipient was notified of the change. Such changes shall be agreed to in writing and incorporated into a Contract amendment. Said amendment shall be issued by the County-assigned Contract Administrator, shall require the mutual consent of all Parties, and may be subject to approval by the County Board of supervisors. Nothing herein shall prohibit the Subrecipient from proceeding with the work as originally set forth or as previously amended in this Contract.

7. **Breach of Contract:** The failure of the Subrecipient to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a) Terminate the Contract immediately, pursuant to Paragraph K herein;

- b) Afford the Subrecipient written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c) Discontinue payment to the Subrecipient for and during the period in which the Subrecipient is in breach; and
 - d) Offset against any monies billed by the Subrecipient but yet unpaid by the County those monies disallowed pursuant to the above.
8. **Conditions Affecting Work:** The Subrecipient shall be responsible for taking all steps reasonably necessary, to ascertain the nature and location of the work to be performed under this Contract; and to know the general conditions which can affect the work or the cost thereof. Any failure by the Subrecipient to do so will not relieve Subrecipient from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
9. **Conflict of Interest – Subrecipient’s Personnel:** The Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Subrecipient; the Subrecipient’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Subrecipient’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.
- The Subrecipient shall not use moneys provided under this Contract to pay or reimburse any staff person of Subrecipient or any consultant to Subrecipient, if such staff person or consultant is a member of the Board of Directors, or other official governing body, of Subrecipient. Subrecipient shall further be subject to the full texts of local, State and federal conflict of interest statutes applicable to this Contract.
10. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Subrecipient shall not, during the period of this Contract, employ any County employee for any purpose.
11. **Service Contract – Follow-On Work:** No person, firm, subsidiary or subcontractor of a firm that has been awarded a consulting services contract or a contract which includes a consulting component may be awarded a Contract for the performance of services, the purchase of goods or supplies, or the provision of any other related action which arises from or can reasonably be deemed an end-product of work performed under the initial consulting to consulting-related Contract.
12. **Project Manager, County:** The County shall appoint a Project Manager to act as liaison between the County and the Subrecipient during the term of this Contract. The County’s Project Manager shall coordinate the activities of the County staff assigned to work with the Subrecipient.

13. **Subrecipient's Project Manager and Key Personnel:** Subrecipient shall appoint a Project Manager to direct the Subrecipient's efforts in fulfilling Subrecipient's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Subrecipient's Project Manager, in consultation and agreement with the County, shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County's Project Manager, in consultation and agreement with the Director, shall have the right to require the removal and replacement of the Subrecipient's Project Manager from providing services to the County under this Contract. The County's Project Manager shall notify the Subrecipient in writing of such action. The Subrecipient shall accomplish the removal within five (5) business days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Subrecipient's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Subrecipient's Project Manager from providing further services under the Contract.

14. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Subrecipient in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Subrecipient after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

A. Copyrights

1. If any material funded by this Contract is subject to copyright, the State of California reserves the right to copyright such material and the Subrecipient agrees not to copyright such material, except as set forth in Paragraph 14(B) below.
2. The Subrecipient may request permission to copyright material by writing to the Director of Office on Aging. The Office on Aging will request permission from the Director of CDA. The County shall use commercially reasonable efforts to secure from the Director of CDA permission, or reason for denying permission to the County in writing within approximately sixty (60) days of receipt of the request, and will inform Subrecipient after receiving a decision from CDA.
3. If the material is copyrighted with the consent of CDA, the State of California reserves, and Subrecipient hereby grants to the State of California, 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. Subrecipient also hereby grants to the County, 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 Subrecipient certifies that it has appropriate systems and controls in place to ensure that State of California and/or County 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 Subrecipient shall not publish or transfer any materials, as defined in Paragraph 14(B)(2) below, produced or resulting from activities supported by this Contract without the express written consent of the Director of Office on Aging. The County shall use commercially reasonable efforts to (1) respond; and (2) if appropriate, secure consent from the Director of CDA, or the reasons for denial, and any conditions under which it is given or denied, within sixty (60) days after the written request is received by County. CDA and/or County may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit the Subrecipient from sharing identifying client information authorized by the participant or summary program information which is not client-specific.

2. As used in this Contract, 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 Contract. The term does not include financial reports, or 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 other provisions of the Standard Agreement for Contract Number AP-1920-22 by and between the County and CDA, the State of California may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law.

15. Licenses: At its own expense, Subrecipient and its subcontractors, if any, shall, at all time during the term of this Contract, maintain in full force and effect such licenses or permits as may be required by the State of California or any other government entity. Subrecipient and his subcontractors, if any, shall strictly adhere to, and obey, all governmental rules and regulations now in effect or as subsequently enacted or modified, as promulgated by any local, State, or Federal governmental entity.

16. Disputes – Contract:

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Subrecipient’s Project Manager and the County’s Project Manager, such matter shall be brought to the attention of the Contract Administrator by way of the following process:

1. The Subrecipient shall submit to the agency/department assigned Contract Administrator a written demand for a final decision regarding the disposition of any

dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.

2. The Subrecipient's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Subrecipient shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Subrecipient believes the County is liable.

- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Subrecipient agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Subrecipient's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the Director. If the County fails to render a decision within 90 days after receipt of the Subrecipient's demand, it shall be deemed a final decision adverse to the Subrecipient's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in Paragraph K herein.

17. **EDD Independent Subrecipient Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, Subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the State." The term is further defined by the California Employment Development Department to refer specifically to independent Subrecipients. An independent Subrecipient is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at http://www.edd.ca.gov/Employer_Services.htm.

18. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Subrecipient shall be complete and shall be carefully checked by the professional(s) identified by Subrecipient as Project Manager and key personnel attached hereto, prior to submission to the County. Subrecipient agrees that County review is discretionary and Subrecipient shall not assume that the County will discover errors and/or omissions. If the County discovers any errors

or omissions prior to approving Subrecipient's reports, files and other written documents, the reports, files or documents will be returned to Subrecipient for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Subrecipient after County approval thereof, County approval of Subrecipient's reports, files or documents shall not be used as a defense by Subrecipient in any action between the County and Subrecipient, and the reports, files or documents will be returned to Subrecipient for correction.

19. **Non-Supplantation of Funds:** Subrecipient shall not supplant any Federal, State, or County funds intended for the purposes of this Contract with any funds made available under this Contract. Subrecipient shall not claim reimbursement from County for, or apply sums received from County with respect to, that portion of its obligations which have been paid by another source of revenue. Subrecipient agrees that it shall not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for the purposes of obtaining Federal, State, or County funds under any Federal, State, or County program without prior written approval from the County.
20. **Satisfactory Work:** Services rendered hereunder are to be performed to the written satisfaction of County. County's staff will interpret all reports and determine the quality, acceptability and progress of the services rendered.
21. **Access and Records:** County, the State of California and the United States Government and/or their representatives, shall have access, for purposes of monitoring, auditing, and examining, to Subrecipient's activities, books, documents and papers (including computer records and emails) and to records of Subrecipient's subcontractors, consultants, contracted employees, bookkeepers, accountants, employees and participants related to this Contract. Subrecipient shall insert this condition in each Contract between Subrecipient and a subcontractor that is pursuant to this Contract shall require the subcontractor to agree to this condition. Such departments or representatives shall have the right to make excerpts, transcripts and photocopies of such records and to schedule on site monitoring at their discretion. Monitoring activities also may include, but are not limited to, questioning employees and participants and entering any premises or onto any site in which any of the services or activities funded hereunder are conducted or in which any of the records of Subrecipient are kept. Subrecipient shall make available its books, documents, papers, financial records, etc., within three (3) days after receipt of written demand by Director which shall be deemed received upon date of sending. In the event Subrecipient does not make the above referenced documents available within the County of Orange, California, Subrecipient agrees to pay all necessary and reasonable expenses incurred by County, or County's designee, in conducting any audit at the location where said records and books of account are maintained.
22. **Signature in Counterparts:** The Parties agree that separate copies of this Contract and/or electronic signatures and handwritten signatures may be signed by each of the Parties, and this Contract will have the same force and effect as if the Original had been signed by all the Parties.
23. **Reports/Meetings:** The Subrecipient shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in Attachment A. The County's Project Manager and the Subrecipient's Project Manager will meet on reasonable notice to discuss the Subrecipient's performance and progress under this contract. If requested, the Subrecipient's Project Manager and other project personnel shall attend all meetings. The

Subrecipient shall provide such information that is requested by the County for the purpose of monitoring progress under this contract.

24. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by the Subrecipient without advance written consent of the County. Any attempt by the Subrecipient to subcontract any performance of this Contract without the advance written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Subrecipient is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Subrecipient and subcontractor and shall incorporate by reference the terms of this Contract. The Subrecipient shall select a subcontractor in accordance to Federal and/or State procurement standards. The County shall look to the Subrecipient for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange. Additional Subcontract expectations identified in Attachment A.

25. **Equal Employment Opportunity:** The Subrecipient shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding persons with disabilities persons, the Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to provide equal opportunity to disabled persons in employment or in advancement in employment or otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disabilities in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified disabled persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding persons with disabilities, Subrecipient agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

26. **Gratuities:** The Subrecipient warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Subrecipient or any agent or representative of the Subrecipient to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County

in procuring on the open market any goods or services which the Subrecipient agreed to supply shall be borne and paid for by the Subrecipient. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

27. **News/Information Release:** The Subrecipient agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
28. **Notices:** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

For County:

OC Community Resources
Office on Aging
Project Manager
1300 S. Grand Ave. Bldg. B, 2nd Floor
Santa Ana, CA 92705-4407

OC Community Resources
Contract Development and Management
Contract Administrator
601 N. Ross St., 6th Floor
Santa Ana, CA 92701

For Subrecipient:

Council on Aging – Southern California
Lisa Wright Jenkins, President and CEO
2 Executive Circle
Irvine, CA 92614

29. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Subrecipient. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remains the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Subrecipient without the express written consent of the County.
30. **Precedence:** The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.

31. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Subrecipient may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Subrecipient. Upon termination County agrees to pay the Subrecipient for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.
32. **Default – Re-Procurement Costs:** In case of Contract breach by Subrecipient resulting in termination by the County, the County may procure the goods and/or Services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Subrecipient will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Subrecipient. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

33. **County Branding Requirements:**

Publicity, Literature, Advertisement and Social Media

- A. County owns all rights to the name, logos, and symbols of County. The use and/or reproduction of County's name, logos, or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays, or press releases, without County's prior written consent is expressly prohibited.
- B. Subrecipient may develop and publish information related to this Contract where all of the following conditions are satisfied:
1. Project Manager provides its written approval of the content and publication of the information at least 5 days prior to Subrecipient publishing the information, unless a different timeframe for approval is agreed upon by the Project Manager;
 2. Unless directed otherwise by Project Manager, the information will include a statement that the program, wholly or in part, is funded through County, State and Federal government funds from the California Department of Aging;
 3. All project publicity shall include the following statement: "This project is funded in part through a grant from the California Department of Aging, as allocated by the Orange County Board of Supervisors and administered by the Office on Aging." Additional instructions identified in Attachment A.
 4. The information does not give the appearance that the County, its officers, employees, or agencies endorse:
 - a. any commercial product or service; and,

- b. any product or service provided by Subrecipient, unless approved in writing by Project Manager; and,
5. If Subrecipient uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) to publish information related to this Contract, Subrecipient shall develop social media policies and procedures and have them available to the Project Manager. Subrecipient shall comply with County Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Contract. The policy is available on the Internet at <http://www.ocgov.com/gov/ceo/cio/govpolicies>.

Program Specific Terms and Conditions:

34. **Debarment:** Subrecipient shall execute and abide by the Debarment & Suspension Certification, attached hereto as Exhibit 2 and incorporated herein by this reference, and by so doing declares that it is not debarred or suspended or otherwise excluded from or ineligible for participation in Federal/State assistance programs in accordance with 29 C.F.R. Part 98.
35. **Lobbying Certification:**
 - A. Subrecipient shall execute and abide by the terms of the “Certification Regarding Lobbying,” which is attached hereto as Exhibit 3 and incorporated herein by this reference. Subrecipient shall complete and immediately forward to the County’s Project Manager the “Disclosure Form to Report Lobbying,” a copy of which is attached hereto as Exhibit 4 and incorporated herein by this reference, if Subrecipient, or any person, firm or corporation acting on Subrecipient’s behalf, engaged or engages in lobbying any federal office, employee, elected official or agency with respect to this Contract or funds to be received by Subrecipient pursuant to this Contract.
 - B. Subrecipient agrees that the funds provided herein shall not be used to promote, directly or indirectly, any political party, political candidate or political activity, except as permitted by law.
 - C. Subrecipient shall be in compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 and 29 CFR Part 93).
36. **Fraud:** Subrecipient shall immediately report to the Project Manager, in writing, all suspected, alleged, or known instances and facts concerning possible fraud, abuse or criminal activity by either Subrecipient or its Subcontractor(s) under this Contract. Subrecipient shall inform staff and the general public of how to report fraud, waste or abuse through appropriate postings of incident reporting notice. The County’s Anti-Fraud Program can be accessed through: <http://ocgov.com/gov/risk/programs/antifraud>.

Subrecipient shall maintain records, documents, or other evidence of fraud and abuse until otherwise notified by County.
37. **Fiscal Appropriations:** This Contract is subject to and contingent upon available local, state, and/or federal funds and applicable budgetary appropriations being approved by the County of

Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated, without penalty to the County.

38. Fiscal Accountability:

- A. Subrecipient shall establish and maintain a sound financial management system, based upon generally accepted accounting principles. Subrecipient's system shall provide fiscal control and accounting procedures that will include the following:
1. Information pertaining to sub-grant and Contract awards, obligations, unobligated balances, assets, expenditures, and income;
 2. Effective internal controls to safeguard assets and assure their proper use;
 3. A comparison of actual expenditures with budgeted amounts for each sub grant and Contract;
 4. Source documentation to support accounting records; and
 5. Proper charging of costs and cost allocation.
- B. Subrecipient's Records. Subrecipient's records shall be sufficient to:
1. Permit preparation of required reports;
 2. Permit tracking of funds to a level of expenditure adequate to establish that funds have not been used in violation of the applicable restrictions on the use of such funds; and;
 3. Permit the tracking of program income, or profits earned, and any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitation.

39. Indirect Costs: The maximum reimbursement amount allowable for indirect costs is ten percent (10%) of the Subrecipient's Modified Total Direct Costs (MTDC), excluding in-kind contributions and nonexpendable equipment. Subrecipients 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. Indirect costs exceeding the maximum ten percent (10%) may be budgeted as in-kind for purposes of meeting matching requirements in Title III and VII programs only. Subrecipients must receive prior approval from federal awarding agency prior to budgeting the excess indirect costs as in-kind.

40. Dissolution of Entity: Subrecipient shall notify County immediately of any intention to discontinue its existence or bring an action for dissolution.

41. Performance Standards: Subrecipient shall comply with and adhere to the performance accountability standards and general program requirements defined in Attachment A and applicable regulations. Should the Performance Requirements defined in the Agreement between

the State of California and the County of Orange be changed, County shall have the right to unilaterally modify this Contract to meet such requirements.

- A. Accepted professional standards. The performance of work and Services pursuant to this Contract by Subrecipient and its subcontractor's, if any, shall conform to accepted professional standards associated with all Services provided under this Contract. Subrecipient shall resolve all issues regarding the performance of Subrecipient and its subcontractor's, if any, under this Contract using good administrative practices and sound judgment. Subrecipient shall be accountable to County for the proper use of funds provided to Subrecipient pursuant to this Contract and for the performance of all work and Services pursuant to this Contract.
- B. Performance of Subrecipient. Subrecipient agrees to meet the performance standards listed in Attachments E and G.

Administrator or Subrecipient may transfer units of Service from one unit of Service to another unit of Service in Attachment "A" as long as the basic goals and objectives of the program are not altered, and prior written agreement is obtained by Subrecipient from Administrator. Administrator in its sole discretion may increase units of Service in Attachments E and G as a result of a contingency cost increase. Administrator in its sole discretion may decrease units of service in Attachments E and G as a result of a contingency cost decrease. If, at the end of any third, sixth or ninth month, the reported units of service fall below 95% or above 110% of the contracted levels for Older Americans Act or Older Californians Act programs, County, in its sole discretion, may do any, or more than one, of the following:

- i. If Administrator determines that Subrecipient's failure to provide the required levels of Service poses an immediate risk to the health or safety of the older adult clients who should benefit from Services provided by Subrecipient, and that the most effective method of protecting the interests of the older adults is to obtain the Services described herein from another source, County may terminate this Contract immediately in accordance with Paragraph K hereof and pursue all available legal remedies for breach of this Contract, including, but not limited to, the return by Subrecipient of all funds paid by County to Subrecipient that were not expended in accordance with this Contract.
- ii. If Administrator determines that Subrecipient's failure to provide the required levels of service poses an immediate risk to the health or safety of the older adults who should benefit from services provided by Subrecipient, and that the most effective method of protecting the interests of the older adults is to require full performance by Subrecipient of its duties hereunder, County may seek such injunctive relief against Subrecipient as is appropriate and pursue all other available legal remedies for breach of this Contract, including, but not limited to, the return by Subrecipient of all funds paid by County to Subrecipient that were not expended in accordance with this Contract.
- iii. If the level of performance falls below the required levels for the California Department of Aging Standard Contract Terms and Conditions or 95% of the level(s) as specified in Attachment(s) A E and G, Administrator may unilaterally reduce the

funding available to Subrecipient under this Contract to reflect the level of service actually provided by Subrecipient, and may unilaterally make concomitant adjustments in the funding amounts set forth in the Budget Schedule Attachment C of this Contract.

- iv. Administrator may demand, and Subrecipient shall submit upon demand, a corrective action plan that shall include an analysis of the causes of the problem, specific actions to be taken to correct the problem, and a timetable for each such action. The corrective action plan is to be submitted to Administrator within ten (10) days of the request from County and implemented in the required time frame. If Subrecipient does not carry out the required corrective action within the designated time frame, County shall have the right, in its sole discretion, to take any, or more than one, of the following actions:
 - a. Terminate this Contract pursuant to Paragraph K hereof;
 - b. Discontinue program support until such time as Subrecipient complies with the corrective action plan;
 - c. Seek appropriate injunctive relief;
 - d. Collect from Subrecipient all funds paid by County to Subrecipient that were not expended in accordance with this Contract;
 - e. Collect from Subrecipient damages for breach of this Contract;
 - f. Reduce the funding available to or hereunder; or
 - g. Pursue any other available legal or equitable remedy against Subrecipient.

Within five (5) days of demand therefore, Subrecipient shall repay to County all funds paid by County to Subrecipient that were not expended in accordance with this Contract.

- C. Reporting requirements
 - i. Subrecipient will be required to submit records, statistical information, financial reports, and program information in electronic or paper format as required by the County of Orange OoA.
 - ii. Subrecipient shall retain all collected data for the periods specified in Paragraph 46 of this Contract. County has the right to review this documentation at any time during normal business hours.
 - iii. County reserves the right to withhold payment or to terminate this Contract for nonconformance with data collection and reporting requirements.
 - iv. Subrecipient is required to collect and report program data to OoA, including if applicable, properly registering every client receiving services under this Contract, in compliance with the data reporting system required by the California Department of Aging.
 - v. Data shall be collected by Subrecipient every time a service is delivered to a registered client. Data shall be reported to OoA monthly, or as designated by Administrator.
 - vi. Subrecipient will also be required to submit to OoA other records, statistical information, financial reports, invoices, and program information in electronic or paper format by the 10th of every month unless otherwise authorized by Administrator.

- vii. If County-provided data collection equipment is provided; Subrecipient must maintain such equipment in a secure office environment.
- viii. Within 10 days of award of this Contract the Subrecipient must inform the OoA of the designated primary and one back-up staff member who will be responsible for “a” through “e” below. The Subrecipient must inform the OoA within 72 hours of any changes to this designation. New designee(s) will comply with systems training as designated by OoA.
 - a. Supervising the collection of, or collecting data from this program;
 - b. Compiling collected data and reconciling it to data collected;
 - c. Recording collected data in a format required by OoA, using an application required by OoA;
 - d. Distributing forms and reports to the responsible person and collecting completed forms; and
 - e. As required, completing all required OoA/CDA forms.
- ix. Computer Interface Capability: Subrecipient’s computer must meet the minimum hardware/software requirements specified by the vendor that is contracted with the OoA to provide the required CDA reporting data, if required by Administrator. Subrecipient must also maintain computer hardware/software that is able to send and receive email and attachments from Administrator.
- x. Failure to comply with any portion of the system requirements as herein described violates the instructions and specifications of the California Department of Aging Terms and Conditions as required by the State and County. County reserves the right to withhold payment or to terminate this Contract for nonconformance with data collection and reporting requirements.

42. **Payments:**

Subrecipient agrees that any and all funds received under this Contract annually for each respective fiscal year shall be disbursed on or before June 30, and that any and all funds remaining as of June 30 annually, which have not been disbursed shall be returned by Subrecipient to County within thirty (30) days of the expiration or earlier termination of the Contract in accordance with Paragraph K of this Contract. No expense of Subrecipient will be reimbursed by County if incurred after June 30 of each fiscal year.

Upon the effective date of this Contract, County shall make payment to Subrecipient in accordance with the following payment schedule:

- A. Monthly Payments: Beginning August 1, upon receipt and approval by OC Community Resources – OC Community Services of Subrecipient’s invoice showing prior month(s) actual expenditures, County shall make monthly reimbursement payments based on Subrecipient’s invoice so long as the total payments under this Contract do not exceed the Contract maximum obligation.
- B. County Discretion: At the sole discretion of County, payments to Subrecipient may be made more frequently than monthly, but such payments shall always be in arrears and not in advance of the provision of services by Subrecipient.

- C. **Invoices:** Subrecipient shall provide monthly invoices by the 10th day following the month being reported. If the 10th falls on a weekend or holiday, the invoice/data report is due the next business day. Invoices shall show the most up to date costs chargeable to the program(s) referenced in this Contract and in accordance with the OC Community Resources Contract Reimbursement Policy for documenting Subrecipient costs, incorporated herein by reference as Exhibit 5. Failure to provide any of the required documentation will cause County to withhold all or a portion of a request for reimbursement, or return the entire reimbursement package to Subrecipient, until such documentation has been received and approved by the County.

If Subrecipient expenditures for any program referenced in this Contract fall below 20% of planned expenditures for any cumulative period commencing from the beginning of the term of this Contract, Subrecipient may be subject to a reduction in funding. No payments will be authorized if any preceding month's reports or invoices have not been received. Refer to Attachment B, Payment/Compensation for additional information.

43. **Budget Schedule:** Subrecipient agrees that the expenditures of any and all funds under this Contract will be in accordance with the Budget Schedule, a copy of which is attached hereto as Attachment C, and which by this reference is incorporated herein and made a part hereof as if fully set forth.
44. **Modification of Budget Schedule:** Upon written approval, County shall have the authority to transfer allocated program funds from one category of the overall program Budget to any other category of the overall Budget. No such transfer may be made without the express prior written approval of County. Subrecipients will be limited to three (3) adjustments per year. Each modification shall be submitted to the Contract Manager no later than 10 days after the end of the first three quarters as necessary. County initiated adjustments do not count towards the three allowed modification each year.
45. **Annual Audit:** Subrecipient shall arrange for an independent audit to be performed by a Certified Public Accountant, for funds received from County, in accordance with Audit Requirements detailed in Attachment A and which by this reference is incorporated herein and made a part hereof as if fully set forth.
46. **Audit Requirements:**
- A. Maintenance and retention. Subrecipient shall, at all times during the term of this Contract, maintain complete records (which shall include, but not be limited to, accounting records, grants, Contracts, agreements, letters of agreement, insurance documentation, memoranda and/or letters of understanding and client records) of its activities and expenditures hereunder in a form satisfactory to the State and County. All such records must be maintained and kept available by Subrecipient as follows:
- i. Until three (3) years after final payment under this Contract, or until an audit has occurred and an audit resolution has been reached, whichever is later, unless otherwise authorized in writing by County; or

- ii. For such longer period, if any, as is required by applicable statute, by any other Paragraph or Section of this Contract or by Paragraphs “B” or “C” below, or for such longer period as the State or County deem necessary.
- B. Termination of Contract. If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as set forth in this Paragraph “A” and “C”.
- C. Litigation, claims, etc. 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 kept available until three (3) years after every action has been cleared to the satisfaction of County and so stated in writing to Subrecipient.
- D. Accounting records. Unless otherwise agreed in writing by Administrator, Subrecipient shall maintain accounting records to account for all funds received under this Contract. Said records shall be separate from the records for any other funds administered by Subrecipient and shall be kept in accordance with generally accepted accounting principles and procedures. Said records must contain information pertaining to receipt of funds for the program(s) for which this Contract provides, authorization to expend said funds, obligations, unobligated balances, assets, liabilities, outlays or expenditures, program income, contributions, and third-party revenue. Said accounting records must be supported by source documentation (such as cancelled checks, paid bills, payrolls, time and attendance records, Contract and subcontract award documents, etc.), and adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures under this Contract. If the allowability of expenditures cannot be determined because records or documentation of Subrecipient are nonexistent or inadequate according to generally accepted accounting principles and procedures, the expenditures will be questioned in the audit and may be disallowed during the audit resolution process.
- E. Financial reporting requirements. Grant funds shall be identified separately. The County requires Subrecipient to discretely identify State, federal and local grant funding in the Statement of Revenues and Expenditures. In addition, the amounts reported on the Schedule of Revenue and Expenditures shall be displayed by award year beginning July 1st and ending June 30th.
- F. Sub-contract provisions. Subrecipient shall place in all of its sub-contracts, if any, made pursuant to, and/or utilizing funds provided by, this Contract, provisions requiring the subcontractor: (1) to make available to County, State and federal officials all of its records with respect to the sub-contract at any time during normal business hours for the purpose of auditing, examining or making excerpts of such records and auditing all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by the sub-contract; and (2) to retain books, documents, papers, records and other evidence pertinent to the sub-contract for the period of time specified in this Paragraph “A”, “B”, and “C” above.

G. Audit.

- i. 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 Subrecipient and all subcontractors providing services under this Contract 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 Subrecipient, CDA will provide timely notice to Subrecipient.
- ii. Subrecipient shall make available all reasonable information necessary to substantiate that expenditures under this Contract are allowable and allocable, including, but not limited to books, documents, papers, and records. Subrecipient 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.
- iii. All contracts entered into by Subrecipient and subcontractors with audit firms for purposes of conducting independent audits under this Contract 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).
- iv. The Subrecipient shall cooperate with and participate in any further audits which may be required by the State, including CDA fiscal and compliance audits.
CDA Fiscal and Compliance Audits:
- v. The CDA Audits Branch shall perform fiscal and compliance audits of Subrecipients in accordance with Generally Accepted Government Auditing Standards (GAGAS) to ensure compliance with applicable laws, regulations, grants, and Contract requirements.
- vi. 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); and (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); and (e) equipment expenditures and approvals, if required (2 CFR 200.439 and 45 CFR 75.439).
Single Audit Reporting Requirements (2 CFR 200 Subpart F and 45 CFR 75 Subpart F):
- ~~vi.~~ If Subrecipient expends more than \$750,000 in federal funds during the term of this Contract, Subrecipient shall arrange for an audit to be performed, within one hundred fifty (150) days of the end of Subrecipient's fiscal year and in accordance with 2 CFR Part 200, Subpart F, "Audit Requirements of States, Local Governments, and Non-Profit Organizations," which is incorporated herein by reference, as required by the Single Audit Act of 1984, Public Law 98-502; the Single Audit Act Amendments of 1996, Public Law 104-156; and 2 CFR 200.501 to 200.521 and 45 CFR 75.501 to 75.521. Furthermore, County retains the authority to require Subrecipient to submit a similarly prepared audit at Subrecipient's expense even in instances when Subrecipient's expenditure is less than \$750,000. For a Subrecipient is not required

to obtain a single audit and does not obtain another type of audit, the reconciliation of expenditures reported to CDA must be accomplished through performing alternative procedures (e.g., risk assessment [2 CFR 200.331 and 45 CFR 75.352], documented review of financial statements and documented expense verification, including match, etc.

- ii.viii. Subrecipient shall take the following actions in connection with such audit:
- a. Ensure that appropriate corrective action is taken to correct instances of noncompliance with federal laws and regulations. Corrective action shall be taken within six months after County receives Subrecipient's audit report;
 - b. Adjust its own records as necessitated by the audit;
 - c. Permit independent auditors to have access to its records and financial statements as is necessary for County or Subrecipient to comply with 2 CFR Part 200, Subpart F;
 - d. Submit two copies of its audit reports to County no later than 30 days after completion of the reports;
 - e. Procure audit services in accordance with 2 CFR Part, 215.40 (OMB Circular A-110) procurement standards and provide maximum opportunity for small and minority audit firms;
 - f. Include in Contract(s) with auditor(s) provisions that the auditor(s) will comply with all applicable audit requirements;
 - g. Include in its Contract with independent auditors a clause permitting representatives of County or the State to have access to the work papers of the independent auditors;
 - h. Provide to County, the Bureau of State Audits, and their designated representatives, the right to review and to copy all audit reports and any supporting documentation pertaining to the performance of this Contract, and the option to perform audits and/or additional work as needed;
 - i. Cooperate with and participate in any further audits which may be required by County or the State;
 - j. Ensure that its audit addresses all issues contained in any federal OMB Compliance Supplement that applies to its program;
 - k. Ensure that the audit is performed in accordance with Generally Accepted Government Auditing Standards -2 CFR 200.514 and 45 CFR 75.514, is performed by an independent auditor, and is organization-wide;
- ii.ix. Ensure that the audit is all-inclusive, i.e., it 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 in accordance with 2 CFR 200.515 and 45 CFR 75.515; If total funds awarded under this Contract equal or exceed \$10,000, Subrecipient shall be subject to examination and audit, including interviews of its staff, by the County and State of California for a period of three (3) years after final payment under this Contract.

- H. Final financial statement. Within thirty (30) days after termination of this Contract, Subrecipient shall submit to Administrator a final financial statement detailing all program expenditures and all income received during the term of this Contract or include such a final financial statement with Subrecipient's final invoice and substantiating reports.

47. Non-Discrimination and Compliance Provisions:

- A. State laws.
- i. Subrecipient shall, unless exempted, ensure compliance with the requirements of Cal. 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]
 - ii. Subrecipient's signature affixed hereon shall constitute a certification, under penalty of perjury under the laws of the State of California, that Subrecipient has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12900 (a-f) and Title 2, California Code of Regulations, Section 8103.
 - iii. Subrecipient shall include the nondiscrimination and compliance provisions of this Paragraph 47 "A" in all sub-contracts to perform work under this Contract.
- B. Title VI of Civil Rights Act. Subrecipient hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 [42 USC 2000d; 45 CFR 80](P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of the Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which funds are made available under this Contract. Subrecipient hereby gives assurance that it will immediately take any measures necessary to effectuate this Contract.
- C. Title VII of Civil Rights Act. Subrecipient shall comply with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law No. 92-261), and with all applicable rules, regulations and orders promulgated pursuant thereto, as now in existence or as hereafter amended.
- D. Disability discrimination. Subrecipient shall comply with Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and all requirements imposed by the applicable regulations and guidelines issued pursuant to those statutes, including 45 CFR, Part 84.

E. Failure to comply. If Subrecipient fails to comply with the requirements of any Sub-Paragraphs of this Paragraph 47 Administrator may withhold payment to Subrecipient and/or terminate this Contract in accordance with Paragraph K.

48. **Drug Free Workplace:** Subrecipient shall execute and abide by the Drug Free Workplace Certification attached hereto as Exhibit 1 and incorporated herein by this reference.

49. **D-U-N-S Number and Related Information:** D-U-N-S Number is a unique, 9-digit identifier issued and maintained by the Dun & Bradstreet (D&B) that verifies the existence of a business entity. The D-U-N-S number is needed to coordinate with the System for Award Management (SAM) that combines Federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. <https://www.SAM.gov>.

The D-U-N-S Number must be provided to County at the County's request and prior to the execution of this Contract. Subrecipient shall ensure all D-U-N-S information is up to date and the D-U-N-S number status is "active," with no active exclusions prior to execution of this Contract. If County cannot access the Subrecipient's D-U-N-S information related to this Federal subaward on the Federal Funding Accountability and Transparency Act subaward Reporting system (SAM.GOV) due to errors in the Subrecipient's data entry for its D-U-N-S number, the Subrecipient must immediately update the information as required.

The County reserves the right to verify and validate any information prior to contract award and during the entire term of the Contract.

50. **Modification of Program Components and Service Levels:** The Parties hereto agree that those program components and service levels detailed in Attachments A, B, C, D, E, F and/or G may be modified upon mutual written agreement of the Director and Subrecipient so long as the total payments under this Contract are not increased and the basic goals and objectives of the program are not altered. Should the Federal Government and/or the State of California modify any program component and/or service level detailed in Attachments A, B, C, D, E, F and/or G then the County shall have the right to unilaterally modify this Contract to meet such requirements.

A. County may at any time, by written change order to Subrecipient, make changes within the general scope of this Contract, including, in the definition of services and tasks to be performed, the manner in which services are performed, the time and place of performance thereof and additional related provisions, and Contract term. Such change orders may be made when necessitated by changes in the Orange County Office on Aging operations or performance, the operations or performance of Subrecipient, or changes in applicable statutes, regulations or State of California or Federal mandates or directives.

Subrecipient and County shall make a good faith effort to reach agreement with respect to change orders, which affect the price of services under the Contract. Subrecipient's protest or failure to agree to the amount of any adjustment to be made as a result of a change order shall be a dispute for which an appeal may be made pursuant to this Contract. Notwithstanding the foregoing, the price of services under this Contract shall not be increased except by written modification of this Contract indicating the new services and price of this Contract if applicable. Until the Parties reach agreement,

Subrecipient shall not be obligated to assume increased performance under the change order beyond the limitation of funds established within this Contract.

- B. Subrecipient may request changes in the scope of performance or services under this Contract, by submitting a written request to Project Manager describing the request and its impact on the Scope of Services and Budget Schedule. Project Manager will review the request and respond in writing within ten (10) business days. Project Manager's decision whether to approve the request or request Board of Supervisors' approval shall be final. County's Contract Administrator may approve a request that meets all of the following criteria:
- i. It does not materially change the terms of this Contract, and
 - ii. It is supported by adequate consideration to County.

Board of Supervisors' action is necessary to approve a request from Subrecipient that does not satisfy all of the criteria listed above.

51. **Complaint Resolution Process and Grievance Procedures for Participants:** Subrecipient shall comply with grievance procedures, as defined by the program's funding stream. Subrecipient shall advise participants of their right to file complaints and of the procedures for resolution of complaints. Subrecipient shall follow program's procedures for handling complaints which is available from the County's Project Manager for alleging a violation of regulations, grants or other agreements. Any decision of the County, the State or the Federal government relating to the complaint shall be binding on Subrecipient.

Subrecipient shall post the entire Notice of the Grievance Procedure Process in a location that is commonly visible for program participants on its website and at its service location(s).

52. **Sectarian Activities:** Subrecipient certifies that this Contract does not aid or advance any religious sect, church or creed for a purpose that is sectarian in nature, nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination.
53. **Policies and Procedures:** Subrecipient shall monitor its program for compliance with the provisions of this Contract. Subrecipient shall also comply with all applicable parts of County's Policies and Procedures when applicable.
54. **Sweat-free Code of Conduct:** All Subrecipients contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, or supplies have been furnished to the Subrecipient from sources that include sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Subrecipient further declares under penalty of perjury that they adhere to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

The Subrecipient agrees to cooperate fully in providing reasonable access to the Subrecipient's records, documents, agents or employees, or premises if reasonably required by authorized

officials of the State or County, the Department of Industrial Relations, or the Department of Justice to determine the Subrecipient's compliance with the requirements under this paragraph.

55. **S.W.A.G.:** The Subrecipient 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."
56. **Corporate Status:** All corporate Subrecipients shall be registered with the California Secretary of State and shall be in good standing, without suspension by the California Secretary of State, Franchise Tax Board, or Internal Revenue service. The corporate Subrecipient shall maintain the good status standing with the Secretary of State of California throughout the term of this Contract. Any change in corporate status or suspension shall be reported by Subrecipient immediately in writing to County's Project Manager. If Subrecipient fails to maintain good standing or has failed to be in good standing at the time of the effective date of this Contract, County, in addition to all remedies available under the law and this Contract, pursuant to Termination provision of this Contract, terminate this Contract for cause.

Subrecipient, by signing this Contract, does swear under penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against Subrecipient within the immediately preceding two-year period because of Subrecipient's failure to comply with an order of a federal court which orders the Subrecipient to comply with an order of the National Labor Relations Board.

57. **Compliance with Other Laws:**

- A. Laws related to Contract. Subrecipient and its subcontractors shall administer the program(s) funded by this Contract in accordance with this Contract, and with all applicable local, State and federal laws, regulations, directives, guidelines and/or manuals.
- B. Laws applicable to Subrecipient's operations. Subrecipient and its subcontractors shall comply with all federal, State and local laws and regulations pertinent to their operations, including, but not limited to all statutes, ordinances, regulations, directives, guidelines and/or manuals pertaining to wages and hours of employment, occupational safety, fire safety, health and sanitation.
- C. Federal environmental laws. If the amount of compensation Subrecipient shall receive under this Contract exceeds \$100,000, Subrecipient and its subcontractors shall comply with all applicable orders or requirements issued under the following laws:
- i. Clean Air Act as amended (42 U.S.C. 7401)
 - ii. Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)
 - iii. Environmental Protection Agency Regulations (40 CFR 29, Executive Order 11738).
 - iv. State Contract Act [Cal. Pub. Con. Code §10295 et seq.]
 - v. Unruh Civil Rights Act [Cal. Pub. Con. Code § 2010]

- D. State Energy Plan. Subrecipient shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stats. 871).
- E. Withholding. Subrecipient 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 as required by law.
- F. Elder abuse reporting. Subrecipient shall comply with all applicable requirements pertaining to the reporting of elder and dependent adult abuse, including Welfare and Institutions Code Section 15600 et. seq. Before permitting any of its employees, agents, officers, Subrecipients, subcontractors or volunteers to provide services supported by this Contract, Subrecipient shall deliver to them, and obtain their signatures on, the forms described in Welfare and Institutions Code Section 15659, describing the responsibility to report elder and dependent adult abuse. Subrecipient shall retain the originals of all such signed forms.
- G. Debarment.
- i. Subrecipient shall not make any award or permit any award at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal/State assistance programs.
 - ii. Subrecipient shall timely execute any and all amendments to this Contract or certificates or other required documentation relating to its subcontractors' debarment/suspension status.
- H. State and local environmental and land use laws.
- i. Subrecipient shall comply with the California Environmental Quality Act (CEQA) and Section 65402 of the Government Code, as may be required by the land use agency of jurisdiction. Subrecipient further agrees to provide Administrator proof that Subrecipient has complied with, and maintains compliance with, all zoning regulations and that Subrecipient has obtained, and is maintaining in full force and effect, all necessary licenses, permits, certifications, and authorizations to operate said programs at each location, or as may otherwise be approved by Administrator.
 - ii. By signing this Contract, Subrecipient swears under penalty of perjury that Subrecipient is not:
 - a. in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
 - b. subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
 - c. finally determined to be in violation of provisions of federal law relating to air or water pollution.

- I. Failure to comply. If Subrecipient fails to comply with the requirements of any Sections of this Paragraph 57, Administrator may withhold payment to Subrecipient and/or terminate this Contract in accordance with Paragraph K.

58. **Focal Points:** In accordance with 22 CCR § 7364(a)(5) County will specify to Subrecipient the identity of the Area Plan designated focal points for service delivery in the community which is attached hereto as Exhibit 6 and is hereinafter referred to as Exhibit 6.

59. **Covenant Against Contingent Fees:**

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

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

Signature Page

IN WITNESS WHEREOF, the Parties hereto certify that they have read and understand all the terms and conditions contained herein and have hereby caused this Contract to be executed.

***COUNCIL ON AGING – SOUTHERN CALIFORNIA**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

*For Subrecipients that are corporations, signature requirements are as follows: 1) One signature by the Chairman of the Board, the President or any Vice President; and 2) One signature by the secretary, any Assistant secretary, the Chief Financial Officer or an Assistant Treasurer.

For Subrecipients that are not corporations, the person who has authority to bind the Subrecipient to a contract, must sign on one of the lines above.

COUNTY OF ORANGE

A Political Subdivision of the State of California

By: _____

Dated: _____

Dylan Wright, Director
OC Community Resources

**APPROVED AS TO FORM
DEPUTY COUNTY COUNSEL**

By: _____

Dated: _____

DEPUTY COUNTY COUNSEL

SCOPE OF SERVICES

I. GENERAL REQUIREMENTS

A. Hours of Operation and Schedules

1. Regular Hours of Operation:

Contracted service hours of operation shall be from 8:00 a.m. to 5:00 p.m.; Monday through Friday, excluding County observed holidays.

Hours of Operation	
Monday - Friday	8:00 a.m. – 5:00 p.m.
Saturday and Sunday	closed

2. Holiday Operation Schedules:

Subrecipient must ensure that service delivery of program(s) is available throughout the holiday seasons. Closures are authorized only on County observed holidays.

County Observed Holidays	
Independence Day	Christmas Day
Labor Day	New Year's Day
Columbus Day	Martin Luther King Jr. Day
Veteran's Day Observed	Lincoln's Day
Thanksgiving Day	President's Day
Day after Thanksgiving	Memorial Day

B. Funding Requirements

If Subrecipient receives funds pursuant to this Contract for more than one program, the funds received by Subrecipient for each program shall be expended only for that program, and Subrecipient shall not expend more funds for any program than are set forth in the Attachment C, Budget Schedule(s) for that program.

Subrecipient shall operate continuously throughout the term of this Contract with at least the minimum number and type of staff and volunteers required for provision of the services described. Such staff and volunteers shall be qualified in accordance with all applicable statutes and regulations. Subrecipient agrees to submit to Administrator, upon request, a list of persons, including employees, subcontractors and volunteers, who are to provide such services, and any changes to said list, by name, title, professional degree, and experience.

Additional Services. Subrecipient also shall provide the following services to Older Individuals to whom it provides the services described herein in Attachment A with the consent of the Older Individual, or his or her representative, Subrecipient shall bring to the attention of appropriate officials for follow-up, conditions or circumstances which place the Older Individual, or the household of the Older Individual, in imminent danger. Nothing in this paragraph shall be construed to limit Subrecipient's responsibilities for elder abuse reporting as set forth in this Contract.

Coordination of services. Subrecipient shall assure that all services funded under this Contract are coordinated with other appropriate services in the community and that services funded under this Contract do not constitute unnecessary duplications of services provided by other sources.

Coordination of resources. Subrecipient shall work collaboratively with County, particularly the Information and Assistance Program (I&A), to ensure that clients who may need any services available through Older Americans Act or Older Californians Act Programs are referred to I&A for assistance in accessing these services.

C. Subrecipient's Records

1. Subrecipient shall keep true and accurate accounts, records, books and data, which shall correctly reflect the business transacted by Subrecipient in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County or until an audit has occurred and an audit resolution has been reached. Storage of records in another County will require written approval from the County. Subrecipient shall reimburse County for all costs and expenses incurred by County and/or the State and U. S. government resulting from travel to a location outside of the County to inspect the records.
2. Records Retention. All accounting records and evidence pertaining to all costs of Subrecipient and all documents related to this Contract shall be kept available at Subrecipient's office or place of business for the duration of this Contract and thereafter for three (3) years after completion of an audit. Records which relate to: (1) complaints, claims, administrative proceedings or litigation arising out of the performance of this Contract; or (2) costs and expenses of this Contract to which County or any other governmental department takes exception, shall be retained beyond the three (3) years until final resolution or disposition of such appeals, litigation, claims, or exceptions.
3. Liability. Subrecipient shall pay to County the full amount of County's liability to the State or Federal government or any department thereof resulting from any disallowance or other audit exceptions to the extent that such liability is attributable to Subrecipient's failure to perform under this Contract.

D. Information Integrity and Security

1. Information Assets. Subrecipient 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 (HIPPA) (i.e., public, confidential, sensitive and/or personal information) herein referred to as Personal, Sensitive and Confidential Information (PSCI) as specified in the State Administrative Manual, Section 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. Information assets include (but are not limited to):
 - a) Information collected and/or accessed in the administration of the State programs and services.
 - b) Information stored in any media form, paper or electronic.
2. Encryption on Portable Computing Devices. Subrecipient is required to use 128-Bit encryption for PSCI data that is collected under this Contract and stored on portable computing devices (including, but not limited to, laptops, personal digital assistants, notebook computers, and backup media) and/or portable electronic storage media (including, but not limited to, discs, thumb/flash drives, portable hard drives, and backup media).
3. Disclosure.
 - a) Subrecipient shall ensure that all PSCI 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.
 - b) Subrecipient 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 Contract, except for statistical information not identifying any participant.
 - c) "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; and symbol or other identifying characteristic assigned to the individual, such as finger or voiceprint or a photograph.
 - d) Subrecipient shall not use the PSCI in Section "iii" above for any purpose other than carrying out Subrecipient's obligations under this Contract. Subrecipient and its subcontractors are authorized to disclose and access identifying information for this purpose as required by County.

- e) Subrecipient shall not, except as otherwise specifically authorized or required by this Contract or court order, disclose any PSCI obtained under the terms of this Contract to anyone other than County or CDA without prior written authorization from County or CDA. Subrecipient may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.
 - f) Subrecipient may allow a participant to authorize the release of PSCI to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Subrecipient accept such blanket authorization from any participant.
4. CDA Privacy and Information Security Awareness Training. Subrecipient employees and volunteers handling PSCI must complete and comply with all requirements of the CDA Privacy and Information Security Awareness Training module located at https://aging.ca.gov/Information_security within thirty (30) days of the start date of the Contract/Agreement, within thirty (30) days of the start date of any new employee or volunteer's employment and annually thereafter. Subrecipient must maintain certificates of completion on file and provide them to CDA upon request.
 5. Health Insurance Portability and Accountability Act (HIPAA) and Personal, Sensitive and Confidential Information (PSCI). Subrecipient agrees to comply with the privacy and security requirements of HIPAA, (i.e., public, confidential, sensitive and/or personal identifying information) herein referred to as Personal, Sensitive and Confidential Information (PSCI).
 6. 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 are lost, or stolen. Subrecipient must comply with CDA's security incident reporting procedures located at <https://www.aging.ca.gov/ProgramsProviders/#Resources>.
 7. Security Breach Notifications. Notice must be given by the Subrecipient to anyone 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.
 8. Software Maintenance. Subrecipient 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.
 9. Electronic Backups. Subrecipient shall ensure that all electronic information is protected by performing regular backups of automated files and databases, and ensure the availability of information assets for continued business. Subrecipient shall ensure that all data, files, and backup files are encrypted.

E. Evaluation and Monitoring

1. Site inspection. Authorized County, State and federal representatives shall have the right to inspect work, program and service sites of Subrecipient during the term of this Contract at any time during normal business hours.
2. Evaluating, monitoring and assessing Subrecipient's performance. Authorized County, State and/or federal representatives shall have the right to monitor, assess and evaluate Subrecipient's performance pursuant to this Contract. Said monitoring, assessment and evaluation may include, but is not limited to, audits, inspections of project premises, visits to participant worksites, and interviews of project staff and participants.
3. Subrecipient cooperation. Subrecipient shall actively participate and cooperate with County, State and/or federal representatives in the monitoring, assessment and evaluation processes, including making any program and any administrative staff (fiscal, etc.) available at the request of such representatives.
4. Failure to comply. Failure by Subrecipient to meet the conditions necessary for an evaluation will be sufficient grounds for County to withhold and/or delay reimbursement or to terminate this Contract.

F. Procurement

1. Competitive process. Subrecipient acknowledges that the procurement of all supplies, services and equipment pursuant to, and utilizing funds provided by, this Contract involves the expenditure of public funds and that the use of a competitive process open to all interested competitors is necessary to maintain the public trust and to allow all interested persons to compete for business resulting from expenditure of said public funds.
2. Non-profit Subrecipient. If Subrecipient is a non-profit organization, Subrecipient shall comply with standards and guidelines provided in 45 C.F.R., Part 74, in procuring all supplies, equipment, construction and services pursuant to, and/or utilizing funds provided by, this Contract.
3. Local government Subrecipient. If Subrecipient is a local government, Subrecipient shall comply with the directives applicable to procurement by subgrantees set forth in 45 C.F.R. Part 92.36 in procuring all supplies, services and equipment pursuant to, and/or utilizing funds provided by, this Contract.

4. Deviation. Should Subrecipient wish to deviate from the requirements of this Paragraph F or wish to issue a sub-contract to other than the lowest bidder or competitor, Subrecipient shall submit written justification therefore to Administrator for approval or denial, and shall withhold any further action until receipt of written notice of Administrator's approval of said request. The decision of Administrator shall be final.

G. Property

1. Unless otherwise provided for in this Paragraph G, property refers to all assets used in operation of this Contract.
 - a) Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, intangibles, etc.
 - b) Property does not include consumable office supplies such as paper, pencils, toner cartridges, file folders, etc.
2. Property acquired under this contract, which meets any of the following criteria is subject to the reporting requirements:
 - a) Has a normal useful life of at least one (1) year and has a unit acquisition cost of at least \$500 (desktop or laptop setup, is considered a unit, if purchased as a unit), for all equipment purchased prior to July 1, 2020.
 - b) Has a normal useful life of at least one (1) year and has a unit acquisition cost of at least \$5,000 for all equipment purchased after June 30, 2020 (desktop or laptop setup, is considered a unit, if purchased as a unit).
 - c) All computing devices, regardless of cost (including but not limited to, workstations, servers, laptops, personal digital assistants, notebook, computers, tablets, smartphones and cellphones).
 - d) All portable electronic storage media, regardless of cost (including but not limited to, thumb/flash drives and portable hard drives).

3. Equipment/Property with per unit cost of \$5,000 or any computing devices, regardless of cost requires justification from the Subrecipient and approval from OoA and CDA and must be included in the Subrecipient's approved HICAP budget.

3.4. Additions, improvements, and betterments to assets meeting all of the conditions in Section B, above, must also be reported. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

4.5. 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.

5.6. Subrecipient shall keep track of property purchased with funds from this Contract, and submit to County a Property Acquisition Form (CDA 9023), in electronic form, for all property furnished or purchased with funds awarded under the terms of this Contract, as instructed by County or CDA. Subrecipient shall certify their reported property inventory annually with the Closeout by completing the Program Inventory Certification (CDA 9024) to County unless otherwise directed by Administrator.

6.7. Subrecipient shall record, at a minimum, the following information when property is acquired:

- a) Date acquired
- b) Item description (include model number)
- c) CDA tag number
- d) Serial number (if applicable)
- e) Purchase cost or other basis of valuation
- f) Fund source

7.8. Disposal of Property:

- a) Prior to disposal of any property purchased with funds from this Contract or any predecessor Contract, Subrecipient must obtain approval from CDA for reportable property. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from CDA. Subrecipient shall email to County the electronic version of the Request to Dispose of Property (CDA 248). CDA will then instruct County on disposition of the property, and County will notify Subrecipient. Once approval for disposal has been received from CDA, and the County has reported to CDA the Property Survey Report's (STD 152) Certification of Disposition, the item(s) shall be removed from Subrecipient's inventory report.
- b) Subrecipient must remove all confidential, sensitive, or personal information from CDA 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, cell or smart phones, multi-function printers, and laptops.

~~8.9.~~ Any loss, damage, or theft of equipment shall be investigated, fully documented and the Subrecipient shall promptly notify OoA.

~~9.10.~~ The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Contract, unless otherwise required by federal law or regulations or as otherwise agreed by the Parties.

~~10.11.~~ Subrecipient 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, or until Subrecipient has complied with all written instructions from County regarding the final disposition of the property.

~~11.12.~~ In the event of Subrecipient's dissolution or upon termination of this Contract, Subrecipient shall provide a final property inventory to County. The State reserves the right to require Subrecipient to transfer such property to another entity or to the State.

~~12.13.~~ To exercise the above right, no later than 120 days after termination of this Contract or notification of Subrecipient's dissolution, County will issue specific written disposition instructions to Subrecipient.

~~13.14.~~ Subrecipient shall use the property for the purpose for which it was intended under the Contract. When no longer needed for that use, Subrecipient shall use it, if needed, and with written approval of County for other purposes in this order:

- a) Another CDA program providing the same or similar service
- b) Another CDA-funded program

~~14.15.~~ Subrecipient may share use of the property and equipment or allow use by other programs, upon written approval from County. As a condition of the approval, County may require reimbursement under this Contract for its use.

~~15.16.~~ Subrecipient shall not use equipment or supplies acquired under this Contract with federal and/or State monies for personal gain or to usurp the competitive advantage of a privately-owned business entity.

~~16.17.~~ If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.

H. Expenditure of Funds

1. Subrecipient shall expend all funds received hereunder in accordance with the Contract.

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 the California Department of Human Resources (CalHR) rules and regulations.
 - a) In State: Mileage/Per Diem (meals and incidentals)/Lodging – <https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>
 - b) Out of State - <http://hrmanual.calhr.ca.gov/Home/ManualItem/1/2201>

This is not to be construed as limiting Subrecipient from paying any differences in costs, from funds other than those provided by this Contract, between CalHR rates and any rates Subrecipient 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 CDA. [SCM 3.17.2.A(4)]

II. General Program Requirements

Subrecipient shall adhere, but not be limited to, the following requirements for all programs:

A. Program

1. Provide and maintain a written personnel manual or handbook that contains policies and procedures consistent with the requirements of the funding source and government laws and regulations.
2. Provide information on available services and resources for elderly clients and/or family caregivers.
3. Assure that all services funded under this Contract are coordinated with other programs and services in the community. The services funded under this Contract should not constitute duplication of services provided by other sources.
4. Work collaboratively with County, particularly the Information and Assistance Program (I&A), to ensure that clients in need of services as provided via the Older Americans Act or Older Californians Act programs are given referrals and assistance with accessing these services.
5. Maintain participant records to prevent data breaching and unauthorized client information disclosure. Ensure all participant records are kept and stored in a confidential manner.
6. Provide bilingual program material and services to the community.
7. Identify and serve the targeted population and outreach to the low-income, at-risk minority population.

8. Provide each older person with an opportunity to voluntarily contribute to the cost of service in a non-coercive manner.
9. Provide a current copy of the Voluntary Contribution Letter as approved by the County. The approved Voluntary Contribution letter should not resemble an invoice.
10. Have written procedures to account for all contributions received and to ensure the protection of participant confidentiality and privacy.
11. Develop applicable program and intake forms that meet CDA requirements and County approval process.
12. Provide written policies and methods of implementation regarding income structure for all programs.
13. Conduct a client satisfaction survey annually. County must approve the survey instrument prior to its use, and all findings from the survey must be used to improve services. The provider must keep the completed surveys and the tabulated results on file. Submit a copy of the tabulated results, along with a summary detailing a plan of action addressing relevant concerns of participants in order to improve program services to County by the end of the third quarter of the fiscal year in which it is conducted.
14. Provide the County with a current and active DUNS Number prior to Contract execution.

B. Elder Abuse

1. Notify appropriate officials when cases of imminent danger including, but not limited to harm, abuse and/or neglect toward older adults and dependent adults are observed or reported.
2. Provide follow-up with the proper authorities for Elder Abuse reporting in order to ensure that all required paper work and report details have been documented and submitted in a timely manner.

C. Staffing and Organization

1. Provide written job descriptions for each staff position. Each job description shall include position title, qualifications to hold the position, duties and responsibilities, lines of communication for supervision and reporting, salary range, and available benefits options.
2. Provide the latest version of each program's organizational chart.

3. Train and update internal staff on current policies and procedures regarding program operation, including procedures for operating all aspects of Older Americans Act programs.
4. Provide written policy governing the use of volunteers, including a concise definition of volunteer responsibilities, recruitment, training and supervision.
5. Maintain time sheets for employees and volunteers.
6. Provide current copies of governing by-laws that contain Board member information, advisory members, committees and meeting schedules as required by the County.
7. Provide a current Board Agenda and Minutes as requested by the County.
8. Ensure that all staff complete CDA's mandatory Privacy and Information Security Awareness Training module located on the CDA website within thirty (30) days of the beginning of their contract with the County. All new provider staff and volunteers are required to complete this training within thirty (30) days of their start date.
9. Maintain certificates on file and provide County with copies of the Privacy and Information Security Awareness Training certificates for all staff who are required to complete the training.
10. Provide a grievance process and policy for older adult and caregiver clients, employees and volunteers.

D. Data Reporting

1. Maintain and adhere to data system software and encrypted portable computer device updates, and interface capability requirements for each computer located within the facility, and as specified in the Contract and required by County.

E. Property/Equipment

1. Provide the County with an inventory list of property purchased with County funds.
2. Comply with all property requirements as specified in the contract and required by County.
3. Develop and maintain policies and procedures for tracking property purchased with program funds.

F. Insurance

1. Provide proof of Insurance coverage based on insurance requirements as indicated and required in the Contract and by County within a timely manner.

G. Emergency Preparedness Practices and Facility Requirements

1. Provide written emergency operation plans on-site
2. Provide the County with a copy of an Emergency Operations Plan.
3. Conduct two (2) fire drills per year and provide copies of the fire drill roster to the County.
4. Ensure that all furniture, appliances and other freestanding objects are secured in the event of an emergency.
5. Provide clearly marked, legible gas and water shut-off valves along with instructions/tools on how to operate the shut-off in cases of emergency.
6. Post an evacuation plan in a highly visible location within the facility.
7. Provide sufficient supplies of food and water for each program participant in cases of emergency.
8. Ensure the health and safety of program participants by monitoring the expiration dates of food and water supplies and replacing when applicable to do so.
9. Ensure that staff are regularly trained and assigned specific responsibilities during emergencies.
10. Keep the most up-to-date inventory on disaster response supplies and equipment.
11. Provide written evidence of annual staff and volunteer emergency procedures training on the provider's Emergency Operations Plan.
12. Provide flashlights, portable radio and batteries for the facility in cases of emergency.
13. Provide and maintain first aid supplies for the facility in cases of emergency.
14. Provide and maintain current inspection tags on all fire extinguishers throughout the facility.

15. Provide current health inspection reports to the County.
16. Ensure that facility exit doors are clearly marked and functional.
17. Ensure that facility walkway paths are free from clutter and obstruction.
18. Ensure that elevator permits are current within each facility, as applicable.
19. Comply with all privacy and security requirements of the Health Insurance Portability and Accountability Act (HIPPA).

H. Monitoring of Subcontractors

1. Maintain subcontract agreements on file as applicable.
2. Conduct annual comprehensive monitoring of all subcontractors to ensure CDA compliance. Subcontractors shall be monitored within six (6) months of effective date of agreement.
3. Resolve any issues regarding performance with subcontractor within thirty (30) days from completed date of monitoring.
4. Provide the County a copy of the completed monitoring and any applicable resolutions to performance.

III. HEALTH INSURANCE COUNSELING AND ADVOCACY PROGRAM (HICAP) EXPECTATIONS & REQUIREMENTS

A. Definitions:

1. **Eligible Service Population** means Medicare beneficiaries, including Medicare beneficiaries by virtue of a disability, and those persons imminent of Medicare eligibility [Welf. & Inst. Code § 9541(a), (c)(2)], and the public at large who are eligible to receive HICAP community education services, including long-term care planning and long-term care insurance counseling services. [Welf. & Inst. Code § 9541(c)(1), (c)(2), (c)(4)-(6)]
2. **Health Insurance Counseling and Advocacy Program (HICAP)** means a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy about Medicare, private health insurance, and related health care coverage plans for the purpose of preserving service integrity on a Statewide basis. [Welf. & Inst. Code § 9541]

3. **Medicare Modernization Act 2005 (MMA) State Funds** means the 2005 augmentation of HICAP State funds as defined in Welf. & Inst. Code § 9757.5(h).
4. **State Health Insurance Assistance Program (SHIP)** means a national program supported by the federal Administration for Community Living (ACL) that offers one-on-one counseling and assistance to people with Medicare and their families. Through federal grants directed to states, SHIPs provide free counseling and assistance via telephone and face-to-face interactive sessions, public education presentations and programs, and media activities. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.
5. **Statewide HICAP Automated Reporting Program (SHARP)** means the State's proprietary database for reporting HICAP data to the Centers for Medicare and Medicaid Services (CMS).

B. Scope of Services

The Subrecipient shall:

1. Conduct recruitment, training, coordination, and registration of health insurance counselors, including a large contingent of volunteer counselors, Long-Term Care Counselors, and Long-Term Care Community Educators designed to expand services as broadly as possible. New counselors shall be recruited, trained, and registered in compliance with state law and the HICAP Program Manual.
2. Ensure that all HICAP volunteers and staff members in positions of trust are subject to a background and national-level criminal record check.
 - a) Ensure that HICAP has a protocol for determining which criminal violations render a volunteer or staff member unsuitable for SHIP assignments.
 - b) Ensure that the HICAP is in full compliance with the federal Volunteer Risk and Program Management (VRPM) requirements.
3. Ensure that the standard HICAP business hours during which the program is open to the public, shall be five (5) days a week, Monday through Friday, from at least 9am to 4pm, except on observed holidays.
4. Ensure that public telephone access is available during normal business hours, Monday through Friday, 9am to 4pm. In the event clients cannot receive personal assistance immediately, they must be offered an opportunity to leave their name, a return telephone number, and a brief voicemail message on an answering service. Return calls to clients that have left voicemail messages must be made within two (2) business days.
5. Ensure that the HICAP email address displayed on any public-facing website is monitored by staff Monday through Friday, 9am to 4pm. Responses to email

communications must be provided within two (2) business days of the day the email was received.

6. Prior to counseling implementation, provide a written disclosure statement or its equivalent to clients receiving counseling services as prescribed by CDA in the HICAP Program Manual. [Welf. & Inst. Code § 9541(f)(4)]
7. Obtain a written and signed consent form from clients prior to disclosing their personal or confidential information to a third party.
8. Provide community education designed to inform the public about Medicare, Medicare supplement, long-term care planning, and long-term care insurance options, Medicare Advantage plans, related managed health care plans, and insurance topics. [Welf. & Inst. Code § 9541(c)(1), (c)(4)-(6)]
9. Refer instances of suspected misrepresentation in advertising or sales of services provided by Medicare, managed health care plans, and life and disability insurers and agents, in accordance with the HICAP Program Manual. [Welf. & Inst. Code § 9541(e)]
10. Collect, track, and report on all aspects of HICAP activity as specified by the State and the County, to assess progress in reaching measurable outcomes as defined through annual HICAP Performance Measures.
11. Ensure the submission of program information and support documentation to OoA for the development of reports required by CDA.
12. Ensure that processes are in place to provide program evaluation and quality assurance, including but not limited to, client satisfaction surveys and questionnaires.

13. The Subrecipient is prohibited from the direct or indirect use of funds to:

- a) Procure or obtain,
- b) Enter into contract to procure or obtain; or
- c) Extend or renew a contract to procure or obtain services, equipment or systems produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities. [Pub. L. 115-232, section 889]. The above prohibition includes video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company, their subsidiaries and affiliates.

- ~~13.~~14. Ensure that referral services for legal representation with respect to Medicare appeals, Medicare related managed care appeals, and other related

insurance problems, excluding the filing of lawsuits against private insurers or managed health care plans, are provided accordingly.

14.15. Ensure that if legal services are provided directly or through a subcontract, the following conditions must be met:

- a) HICAP legal representation and technical program support shall be provided by or under the direction of a Supervising Attorney who is trained in Medicare law and who is in good standing with the California Bar.
- b) Legal representation services shall be limited to Medicare, Medicare Part D issues, Medicare savings programs, low-income subsidy issues, long-term care insurance, managed care, and related health care coverage plans. [Welf. & Inst. Code § 9541 (c)(3)]
- c) HICAP legal representation shall be subject to the understanding that the legal representation and legal advocacy shall not include the filing of lawsuits against private insurers or managed health care plans. [Welf. & Inst. Code § 5941(c)(3)]
- d) Contracted legal representation services shall not commence without a formal referral from the HICAP Program Manager to the Supervising Attorney, and only after a preliminary counseling session determines the need for referral. The Supervising Attorney shall report the performance of legal services in accordance with HICAP reporting instructions.

C. Publication

Materials published or transferred by the Subrecipient and financed with funds under this Contract shall:

1. Use the SHIP Logo and Tagline on all HICAP publications, including websites.
2. Include the express acknowledgment on all SHIP public information materials, **“This project was supported, in part, by grant number 90SAPG0094-01-00 from the U.S. Administration for Community Living, Department of Health and Human Services, Washington D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefor, necessarily represent official Administration for Community Living policy.”**
3. The grant number may change at any time. Any changes to the publication acknowledgement language, including, but not limited to updates to the grant number, will be communicated to the Subrecipient by the OoA and/or CDA.

IV. FINANCIAL ALIGNMENT (FA) EXPECTATIONS & REQUIREMENTS

A. Definitions:

1. **Cal MediConnect (formerly the Dual Eligible Demonstration Project)** means a demonstration program that coordinates health care services for people with Medicare and Medi-Cal through an integrated system of health care delivery, including medical, behavioral, and long-term support. Cal MediConnect is authorized by Section 1115A of the Social Security Act (added by Section 3021 of the Patient Protection and Affordable Care Act, PL 111-148), and it is a key element of California's Coordinated Care Initiative (CCI). The CCI was authorized pursuant to SB 1008 (Chapter 33, Statutes of 2012) and SB 1036 (Chapter 45, Statutes of 2012), and reauthorized in the 2017-18 California Budget.
2. **Centers for Medicare and Medicaid Services (CMS)** mean the federal Medicare/Medicaid Agency.
3. **Dual Eligible Beneficiaries** mean individuals 21 years of age or older who are enrolled for benefits under Medicare Part A (42 USC Sec. 1395c et seq.) or Medicare Part B (42 USC Sec. 1395j et seq.), or both, and is eligible for medical assistance under the Medi-Cal State Plan.
4. **Eligible Service Population** means dual eligible beneficiaries eligible for, enrolled in, or targeted for enrollment into a Cal MediConnect Health Plan, or beneficiaries' designated representative.
5. **Enhanced Outreach** means outreach activities above and beyond routine activities planned in response to other funding (e.g., FA-2021, State Health Insurance Assistance Program (SHIP) Funds, and Medicare Improvements for Patients and Providers Act (MIPPA) Funds), tailored to the specific needs of dual eligible beneficiaries eligible for, enrolled in, or targeted for enrollment into a Cal MediConnect Health Plan.
6. **Enrollment Brokers** mean third-party entities that enroll beneficiaries into Cal MediConnect plans chosen by the beneficiary.
7. **Financial Alignment (FA) Model** means the model the State is using to enroll dual eligible beneficiaries in Cal MediConnect health plans that integrate benefits and align financial incentives between Medicare and Medi-Cal.
8. **Health Insurance and Advocacy Program (HICAP)** means a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy about Medicare, private health insurance, and related health care coverage plans for the purpose of preserving service integrity on a Statewide basis. [Welf. & Inst. Code § 9541]

9. **Long Term Services and Supports (LTSS)** are Medi-Cal programs that provide assistance with Activities of Daily Living, and include a range of home and community based services, such as: In-Home Supportive Services; Community-Based Adult Services; an Multipurpose Senior Services Program, in addition to care in nursing facility services when needed.
10. **One-on-one Counseling** means the provision of local counseling and informational resources that enable dual eligible beneficiaries to make informed decisions about what forms of coverage best meet an individual's care needs (for example, considerations relative to enrolling in or changing Cal MediConnect Plans).
11. **State Health Insurance Assistance Program (SHIP)** is a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy as to Medicare, private health insurance, and related health care coverage plans, on a Statewide basis [Welf. & Inst. Code § 9541]. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.
12. **Statewide HICAP Automated Reporting Program (SHARP)** means the State's proprietary database for reporting HICAP data to federal grantors.
13. **Social Security Act Section 1115A** means the section added by Section 3021 of the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148) that authorizes the CMS Innovation Center to test innovative payment and service delivery models to reduce program expenditures under Medicare, Medicaid, and the Children's Health Insurance Program while preserving or enhancing quality of life.

B. Scope of Services

The Subrecipient shall:

1. Ensure all applicable laws and regulations, including statutory requirements of HICAP [Welf. & Inst. Code §9541] are met. Services shall also be provided in accordance with applicable grant terms and conditions, the HICAP Program Manual, and any other subsequent CDA Program Memos (PMs), provider bulletins or similar instructions issued by federal or State agencies during the term of this contract.
2. Ensure that all program activities must be separate, distinct, over and above those related activities provided through other funding sources (e.g., State Health Insurance Assistance Program (SHIP) Base Grant, and Medicare Improvements for

Patients and Providers (MIPPA) Funds) and must meet OoA, CDA, and CMS performance requirements.

3. Ensure that the Eligible Service Population receives enhanced outreach activities, materials, and one-on-one counseling on coverage options for their Health and LTSS benefits under Cal MediConnect and alternatives. Outreach materials and one-on-one counseling activities should be health literate, culturally/linguistically appropriate, and specific to the needs of the Eligible Service Population.
4. Ensure that individuals in the Eligible Service Population have access to information and counseling to empower them to make informed decisions about selecting plans that best met their health and LTSS needs. This information and counseling shall be fair, objective, accurate, timely, complete and impartial. It shall include, but not be limited to, all available health coverage options, implementation activities and timelines, appeal rights, and options for participating in the program.
5. Ensure an appropriate availability of counselors.
6. Ensure compliance with accessibility and non-discrimination laws and regulations as they apply to the program activities (including the Americans with Disabilities Act, Sections 504 and 510 of the Rehabilitation Act of 1973, and Section 1557 of the Affordable Care Act).
7. Ensure the provisions of additional outreach services and materials to partners, beneficiary caregivers, providers, other aging network and disability partners (e.g., Information and Assistance, Aging and Disability Resource Centers (ADRC), county Medi-Cal offices, Independent Living Centers, the Cal MediConnect Ombudsman, and other not-for-profit agencies) regarding Cal MediConnect and the availability of HICAP one-on-one counseling for the Eligible Service Population, and refer beneficiaries to other resources as needed.
8. Ensure outreach and one-on-one counseling activities are enhanced to reach Dual Eligible sub-populations, such as beneficiaries with Limited English Proficiency, intellectual and developmental disabilities, severe and persistent mental illness, behavioral and cognitive disabilities, and other demonstration sub-populations.
9. Ensure that the activities provided through this Agreement are separate, distinct, above and beyond those authorized under other Federal initiatives. The FA-2021 program activities include, but are not limited to:
 - a) Staying apprised of the status of the Cal MediConnect demonstration, including plan participation, enrollment schedules, and outreach campaigns;
 - b) Developing and providing HICAP Counselors with the information, training, and tools they will need to effectively and efficiently help the Eligible Service Population;

- c) Conducting outreach to educate the Eligible Service Population and their caregivers and representatives about their coverage options, including those available through the Cal MediConnect demonstration;
 - d) Partnering with stakeholders, including Area Agencies on Aging, Aging and Disability Resource Connection programs, county Medi-Cal offices, Independent Living Centers, the Cal MediConnect Ombudsman, and other entities to conduct beneficiary outreach and education;
 - e) Assisting the Eligible Service Population and their caregivers and representatives in making informed decisions about what forms of coverage best meet an individual's care needs (for example, considerations relative to enrolling in or changing Cal MediConnect plans).
 - f) Assisting the Eligible Service Population with enrollment and disenrollment, including referring to or assisting with the state enrollment broker, when applicable.
 - g) Referring beneficiaries, as appropriate, to other organizations including the Cal MediConnect Ombudsman Program and other service organizations.
 - h) Apprising OoA and CDA of trends or lessons learned affecting the Eligible Service Population.
 - i) Providing targeted activities to reach sub-populations of the Eligible Service Population in the Planning and Service Area (PSA). Sub-populations include, but are not limited to, dual eligible beneficiaries with limited English proficiency, intellectual and development disabilities, severe and persistent mental illness, behavioral or cognitive disabilities, and dual eligible beneficiaries in federally recognized American Indian tribes.
 - j) Providing one-on-one counseling for the eligible service population in determining which types of coverage most appropriately meet their individual health and LTSS needs. These counseling sessions could include assistance with:
 - i. Selecting a different Cal MediConnect plan;
 - ii. Enrolling in a Medicare Managed Care plan and a Medi-Cal Managed Care plan;
 - iii. Choosing fee-for-service Medicare with a Medi-Cal Managed Care plan; and
 - iv. Enrolling in Program of All-Inclusive Care for the Elderly (PACE) if eligible.
10. Develop and implement a customer satisfaction process to ensure service quality, and report results to OoA/CDA. If the results of the customer satisfaction process show material deficiencies in activities, the subrecipient shall submit a corrective action plan as instructed by OoA/CDA.

11. Participate in quarterly calls with CDA to review progress of the agreement.
12. Ensure that all responsible persons have access to up-to-date materials, standards, policies, and procedures relevant to Cal MediConnect.
13. Ensure adequate staffing to cover all contract requirements and timelines.
14. Collect, verify, and report all required monthly data to CDA.
15. Develop, update, and implement the COUNTY/CDA approved local Financial Alignment (FA) Work Plan. The Work Plan must outline: Goals, Measurable Outcomes, Major Objectives, Key Tasks, Lead Person assigned, Timeframe (Start and End Dates), and the specific mechanisms that the HICAP subrecipient will use to coordinate efforts with other local organizations to ensure that the work is collaborative and non-duplicative, and that resources are appropriately leveraged to provide maximum effectiveness. OoA and CDA may request revisions to the Work Plan at any time.
16. Prepare and submit Semi-Annual and Final narrative reports to OoA, as specified and required by OoA and CDA. Updates to the approved Work Plan and documentation of progress towards reaching projected goals shall be included with the Semi-Annual and Final narrative reports.

C. Publications

1. Ensure that all publications, press announcements, posters, oral presentations at meetings, seminars, and any other information-dissemination format, including, but not limited to, electronic/digital media that is related to this program include a formal acknowledgement of support from the Department of Health and Human Services, citing the Funding Opportunity Number as follows: **“The project described was supported by Funding Opportunity Number CMS-1J1-19-001 from the U.S. Department of Health & Human Services, Centers for Medicare & Medicaid Services, Center for Medicare & Medicaid Innovation.”** Subrecipient must also include a disclaimer stating that, **“The contents provided are solely the responsibility of the authors and do not necessarily represent the official views of HHS or any of its agencies.”**
2. The subrecipient must use the SHIP logo and tagline on all program materials developed for public use.
3. The subrecipient must submit one copy of each publication resulting from work performed under this contract, regardless of format, to OoA and CDA with the Semi-Annual Progress Reports and Final Report.

4. The Funding Opportunity Number may change at any time. Any changes to the publication acknowledgement language, including, but not limited to updates to the Funding Opportunity Number, will be communicated to the subrecipient by the OoA and/or CDA.

V. **MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT PROGRAM (MIPPA) EXPECTATIONS & REQUIREMENTS**

A. **Definitions:**

1. **Aging and Disability Resource Connection (ADRC)** means a program that helps older adults and individuals with disabilities make informed decisions about their service and support options and serves as a single point of entry to the long-term care system. Outside California, these programs are called Aging and Disability Resource Centers. The terms are used interchangeably in this agreement. ADRCs were established through a collaborative effort of the US Administration for Community Living (ACL) and the Centers for Medicare & Medicaid Services.
2. **Eligible Service Population** means individuals defined as Medicare eligible beneficiaries likely to be qualified for Medicare Part D, the Low-Income Subsidy (LIS) Prescription Drug Program, and/or the Medicare Savings Programs (MSP).
3. **Enhanced Outreach** means outreach activities that include, but are not limited to, disease prevention and promoting wellness and are above and beyond routine activities planned in response to other funding (e.g., Basic State Health Insurance Assistance Program [SHIP] funds or Older Americans Act [OAA] outreach funds).
4. **Enrollment Assistance** means one-on-one assistance to beneficiaries completing and submitting LIS and MSP applications. Enhanced outreach alone does not meet the requirement for enrollment assistance.
5. **Enrollment Assistance Centers** means locations equipped and designated for LIS and MSP enhanced outreach and enrollment assistance that have been publicly advertised and identified for these purposes.
6. **Health Insurance Counseling and Advocacy Program (HICAP)** is a program designed to provide Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy as to Medicare, private health insurance, and related health care coverage plans, on a statewide basis. [Welf. & Inst. Code § 9541]
7. **Low-Income Subsidy (LIS)** means a federal program that provides financial assistance with Part D premiums and cost sharing for eligible low-income Medicare beneficiaries.

8. **Medicare Improvements for Patients and Providers Act (MIPPA) of 2008** means legislation that amended Titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access.
9. **Medicare Prescription Drug Improvement and Modernization Act of 2003** (also known as the “Medicare Modernization Act” or “MMA”) means legislation that imposed the most sweeping changes to the Medicare program since its inception, including the addition of a prescription drug benefit through a new Medicare Part D.
10. **Medicare Savings Programs (MSP)** means three programs that serve Medicare beneficiaries who do not qualify for full Medi-Cal: Qualified Medicare Beneficiaries, Specified Low-Income Beneficiaries, and Qualified Individuals. Beneficiaries enrolled in one of these Medicare Savings Programs automatically receive LIS.
11. **State Health Insurance Assistance Program (SHIP)** means a national program supported by the federal ACL that offers one-on-one counseling and assistance to people with Medicare and their families. Through federal grants directed to states, SHIPs provide free counseling and assistance via telephone and face-to-face interactive sessions, public education presentations and programs, and media activities. In California, SHIP is the same program as the Health Insurance Counseling and Advocacy Program (HICAP). This term may be used interchangeably with HICAP.

B. Scope of Services

The Subrecipient shall:

1. Provide enhanced outreach, education, and enrollment assistance to eligible Medicare beneficiaries regarding Low-Income Subsidy, Medicare Savings Programs, and Medicare preventive services.
2. Develop, update, and implement the COUNTY/CDA approved local MIPPA Work Plan. The Work Plan delineates how the Subrecipient, Health Insurance Counseling and Advocacy Program, and Aging Disability and Resource Centers (where applicable) will coordinate their efforts and resources to achieve performance objectives identified by CDA.

C. Publication

The Subrecipient shall assure that the following publication conditions are met:

1. Include the following acknowledgment language to each material published or transferred by the Subrecipient and financed with funds under this Contract: **“This project was supported, in whole or in part, by grant number(s) 2001CAMIAA-00, 2001CAMISH-00, and 2001CAMIDR-00, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201. Grantees undertaking projects with government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official ACL policy.”**
2. The grant number may change at any time. Any changes to the publication acknowledgement language, including, but not limited to updates to the grant number, will be communicated to the subrecipient by the OoA and/or CDA.

PAYMENT/COMPENSATION

1. COMPENSATION:

This is a cost reimbursement Contract between the County and the Subrecipient for up to: \$ ~~674,764~~701,326 for 12-months (July 1, 2020 – June 30, 2021) as set forth in Attachment A Scope of Services attached hereto and incorporated herein by reference. The Subrecipient agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Subrecipient of all its duties and obligations hereunder. The County shall have no obligation to pay any sum in excess of the total Contract amount specified unless authorized by an amendment in accordance with Paragraphs C and P of the County's General Terms and Conditions.

2. PAYMENT TERMS:

Invoices are to be submitted in arrears to the user agency/department. An invoice for the reimbursement of costs shall be submitted to the address specified below upon the completion of the services/activities and approval of the County Project Manager. Subrecipient shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by OC Community Services and subject to routine processing requirements of the County. The responsibility for providing an acceptable invoice rest with the Subrecipient.

Billing shall cover services not previously invoiced. The Subrecipient shall reimburse the County of Orange for any monies paid to the Subrecipient for services not provided or when services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the services. In the event cost is disputed and/or disallowed, the County will make partial payment to recoup disputed/disallowed monies in the following billing cycle. The Subrecipient will reimburse the County for disputed/disallowed monies identified after July 10th in one lump sum.

Program Invoice(s):

OC Community Resources
Attention: Accounts Payable
601 N. Ross St., 6th floor
Santa Ana, CA 92701

3. INVOICING INSTRUCTIONS:

The Subrecipient will provide an invoice on Subrecipient's letterhead for services rendered. Each invoice will have a number and will include the following information:

The Demand Letter/Invoice must include

- A. Subrecipient's name and address
- B. Subrecipient's remittance address (if different from 1 above)
- C. Subrecipient's Tax ID Number
- D. Name of County Agency Department
- E. County Contract Number
- F. Service date(s) – Month of Service
- G. Delivery Order (DO) / Subordinate Agreement Number
- H. Deliverables / Service description (in accordance with Attachment A)
- I. Subrecipient's Federal I. D. number
- J. Total

Further instructions regarding invoicing/reimbursements as set forth in Exhibit 5, OC Community Resources Contract Reimbursement Policy, are attached hereto and incorporated herein by reference.

4. MONTHLY OPERATING COSTS

Payments for monthly work completed shall be made as follows:

- A. Subrecipient shall timely transmit to County all data required pursuant to this Contract. Subrecipient also shall submit an invoice(s) and such other substantiating reports as County may require, all in a form satisfactory to Project Manager, by the tenth (10th) day of each month, showing the prior month's actual expenditures. If the 10th falls on a weekend or holiday, the invoice/data report is due the next business day. If Subrecipient receives funds pursuant to this Contract for more than one program or Service Area, each such program or Service Area shall be invoiced separately from all other programs or Service Areas, and separate substantiating reports shall be submitted for each program or Service Area, unless otherwise approved by Project Manager. County shall make monthly payments based on Subrecipient's data, invoice(s), and substantiating reports, unless otherwise approved by Project Manager.
- B. In cases where errors or Disallowed costs are identified by County, County will return invoice(s) for revision. Subrecipient must resubmit revised invoice(s) within five (5) business days of notification from County, excluding 12th month close-out invoice.

- C. No payments will be made if any preceding months' data, reports, or invoices are outstanding, unless otherwise approved by the Administrator.
- D. No payments will be made for costs incurred by Subrecipient which are not "allowable costs" applicable to Subrecipient under 45 C.F.R. Part 92.22(b).
- E. Whenever Subrecipient is not in compliance with any provision of this Contract, Project Manager, may withhold payment until such time as Subrecipient comes into compliance.
- F. Total Monthly Costs may exceed one-twelfth of the Maximum Obligation of County. Upon receipt of sufficient written justification from the Subrecipient, as determined in the sole discretion of the Project Manager, or her designee, the Project Manager, has the discretion, in any given month, to pay over the monthly one-twelfth of the Maximum Obligation.

5. FULL COMPENSATION

Subrecipient agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Subrecipient of all its duties and obligations hereunder.

6. CLOSE-OUT DEADLINES

- A. The 12th month close-out invoice is due on the 10th of July without exceptions. In cases of returned invoices due to errors or Disallowed costs, Subrecipient must resubmit revised invoice(s) within two (2) business days of notification from County.
- B. Request for budget modifications and/or invoice revisions from the Subrecipient will be restricted to a minimum for June invoices and will only be allowed at the County's discretion.
- C. Subrecipient must submit June invoice estimates by the 10th of June. Estimates must be projected based on anticipated actual expenditure.

7. CONTRIBUTIONS

- A. Subrecipient shall provide every participant the opportunity to voluntarily contribute toward the cost of the services provided under this Contract. Subrecipient shall protect

the privacy of each such contributor with respect to his or her contribution. No Older Individual shall be denied a service because of unwillingness or inability to contribute towards the cost of said service.

- B. Subrecipient shall keep separate accounts of all contributions for services provided pursuant to this Contract. Subrecipient shall report such contributions monthly to County in the format required by County.
- C. Contributions for services provided pursuant to this Contract shall be added to the funds provided to Subrecipient by County pursuant to this Contract and shall be used for the purposes and in accordance with the terms of this Contract.

8. THIRD-PARTY REVENUE

Subrecipient shall make every reasonable effort to obtain all available reimbursement from third parties (e.g., insurers), for which persons served hereunder may be eligible. All such third-party reimbursements received by Subrecipient shall be reported to County in the format required by County. The amount of such third-party reimbursements shall be deducted from County's maximum obligation hereunder.

9. INTEREST EARNED

- A. If Subrecipient earns interest on funds received pursuant to this Contract, that interest shall be identified as income to the program(s) for which this Contract provides and shall be used and expended only for said program(s). Subrecipient shall maintain in its files full documentation of such interest earnings and expenditures.
- B. If Subrecipient is a nonprofit, it shall maintain any advances of funds or contributions received under this Contract in interest-bearing accounts, unless "a" or "b" below apply:
 - i. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on the funds deposited pursuant to this Contract combined with other federal cash balances, if any, maintained by Subrecipient; or
 - ii. The depository would require an average or minimum balance so high that it would not be feasible within the expected cash resources Subrecipient expects to receive under this Contract.

BUDGET SCHEDULE

Health Insurance Counseling and Advocacy Program (HICAP), Medicare Improvements for Patients and Providers Act (MIPPA), and Financial Alignment (FA)

1. Subrecipient's Budget:

HICAP (July 1, 2020 to June 30, 2021)

Cost Categories	Budgeted Costs
Personnel	\$277,502 341,164
Travel and Training	\$4,848 6,065
Equipment	\$0 14,200
Consultant/Professional Services	\$22,861 25,550
Other Costs	\$198,000 140,380
Indirect Costs	\$0 2,414
Total Budgeted Costs	\$503,211529,773

Matching Funds – No Match Required	Match Amount
Cash	\$0
In-Kind	\$0
Total Match	\$0

MIPPA (July 1, 2020 to September 29, 2020)

Cost Categories	Budgeted Costs
Personnel	\$16,151
Travel and Training	\$0
Equipment	\$0
Consultant/Professional Services	\$0
Other Costs	\$3,535
Indirect Costs	\$0
Total Budgeted Costs	\$19,686

Matching Funds – No Match Required	Match Amount
Cash	\$0
In-Kind	\$0
Total Match	\$0

MIPPA (October 1, 2020 to June 30, 2021)

Cost Categories	Budgeted Costs
Personnel	\$77,581
Travel and Training	\$0
Equipment	\$0
Consultant/Professional Services	\$0
Other Costs	\$39,275
Indirect Costs	\$0
Total Budgeted Costs	\$116,856

Matching Funds – No Match Required	Match Amount
Cash	\$0
In-Kind	\$0
Total Match	\$0

Financial Alignment (November 17, 2020 to June 30, 2021)

Cost Categories	Budgeted Costs
Personnel	\$31,314
Travel and Training	\$0
Equipment	\$0
Consultant/Professional Services	\$0
Other Costs	\$3,697
Indirect Costs	\$0
Total Budgeted Costs	\$35,011

Matching Funds – No Match Required	Match Amount
Cash	\$0
In-Kind	\$0
Total Match	\$0

- The above Cost Categories is an overview of the actual budget approved by the Office on Aging. Subrecipient shall be responsible for and maintain the approved *Budget Summary by Funding Source and Revenue Sources* spreadsheet that is provided to Subrecipient from Office on Aging. The *Budget Summary by Funding Source and Revenue Sources* spreadsheet shall be maintained and completed in accordance with the Office on Aging policies and processes. Any deviation from the Office on Aging approved budget, may and can delay acceptance of budgets and/or reimbursements.

STAFFING PLAN
Council on Aging - Southern California

I. Health Insurance Counseling and Advocacy Program (HICAP) – July 1, 2020 to June 30, ~~2020~~2021

Title	FTE*
Program Manager	1.00
Community Education/Outreach Specialist	0.7475
Volunteer Coordinator and Community Outreach	0.8283
Latino Community Education/Outreach Coordinator	0.0995
Latino Staff Counselor	0.00
Vietnamese Community Education/Outreach	0.0820
Vietnamese Staff Counselor – MT	0.0515
Vietnamese Staff Counselor – TP	0.0300
Operations Coordinator – RL	0.801.00
Volunteer Training Specialist – AS	0.0625
Community Education/Outreach General	0.23
New Counselor – Spanish PT	0.05
Outreach	0.00
Administrative Team	0.6261
TOTAL:	4.575.74

II. Medicare Improvements for Patients and Providers Act (MIPPA) – July 1, 2020 to September 29, 2020

Title	FTE*
Program Director	0.00
Program Manager	0.00
Community Education/Outreach Coordination	0.00
Community Education/Outreach Specialist	0.05
Latino Community Education/Outreach	0.05
Latino Staff Counselor	0.15
Volunteer Specialist	0.00
Vietnamese Community Education/Outreach	0.05
Vietnamese Staff Counselor	0.00
Vietnamese Staff Counselor	0.00
Operations Coordinator	0.00
Training Specialist	0.00
Administrative Team	0.03
TOTAL:	0.33

III. Medicare Improvements for Patients and Providers Act (MIPPA) – October 1, 2020 to June 30, 2021

Title	FTE*
Program Manager	0.00
Community Education/Outreach Specialist	0.14
Volunteer Coordinator/Community Outreach	0.04
Latino Community Education/Outreach	0.56
Latino Staff Counselor	0.00
Vietnamese Community Education/Outreach	0.04
Vietnamese Staff Counselor	0.15
Vietnamese Staff Counselor	0.18
Operations Coordinator	0.21
Volunteer Training Specialist	0.00
New Counselor – Spanish PT	0.15
New Outreach PT (March-June)	0.15
Administrative Team	0.23
TOTAL:	1.85

IV. Financial Alignment (FA) – November 17, 2020 to June 30, 2021

Title	FTE*
Program Manager	0.00
Community Education/Outreach Specialist	0.00
Volunteer Coordinator/Community Outreach	0.00
Latino Community Education/Outreach	0.34
Latino Staff Counselor	0.00
Vietnamese Community Education/Outreach	0.21
Vietnamese Staff Counselor	0.05
Vietnamese Staff Counselor	0.00
Operations Coordinator	0.00
Volunteer Training Specialist	0.00
New Counselor – Spanish PT	0.05
New Outreach PT	0.05
Administrative Team	0.10
TOTAL:	0.80

*1.00 FTE = Full-Time Equivalent

The substitution or addition of other key individuals in any given category or classification shall be allowed only with prior written pre-approval of the County Project Manager.

The County may reserve the right to involve other personnel, as their services are required. The specific individuals will be assigned based on the need and time of the service/class required. Assignment of additional key personnel shall be subject to County approval pursuant to Paragraph 13 of the Contract.

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1. Federal Award Identification

- A. **Subrecipient Name:** Council on Aging Southern California
- B. **Subrecipient's Unique Identifier (DUNS):** 053284159
- C. **Federal Award Identification Number (FAIN):** 90SAPG0094-01-00, 1801CAMISH, 1801CAMIAA, 1801CAMIDR, 2001CAMISH-00, 2001CAMIAA-00, 2001CAMIDR-00, and CMS-1J1-19-001
- D. **Federal Award Date:** 2020-2021
- E. **Subaward Period of Performance:** July 1, 2020 to June 30, 2021
- F. **Total Amount of Federal Funds Obligated by the Action:** \$342,438,315,876

CFDA	FAIN	Award Date	Formula Funds	Amount
93.324	90SAPG0094-01-00	2020	HICAP	\$36,080.75
93.324	90SAPG0094-01-00	2021	HICAP	<u>\$108,242,34,804.25</u>
93.626	CMS-1J1-19-001	2020	Financial Alignment	\$8,752.75
93.626	CMS-1J1-19-001	2021	Financial Alignment	\$26,258.25
93.071	1801CAMISH, 1801CAMIAA, and 1801CAMIDR	2020	MIPPA	\$19,686
93.071	2001CAMISH-00, 2001CAMIAA-00, and 2001CAMIDR-00	2021	MIPPA	\$116,856
TOTAL:				<u>\$315,876,342,438</u>

- G. **Total Amount of Federal Funds Obligated to the Subrecipient:** \$342,438,315,876
- H. **Total Amount of the Federal Award:** \$342,438,315,876
- I. **Federal Award Project Description:**

- For HICAP – State Health Insurance Assistance Program (SHIP)
- For Financial Alignment – Affordable Care Act (ACA) State Health Insurance Assistance Program (SHIP) and Aging and Disability Resource Center (ADRC)

Options Counseling for Medicare-Medicaid Individuals in States with Approved Financial Alignment Model

- For MIPPA – Medicare Enrollment Assistance Program
- J. **Federal Awarding Agency:** U.S. Department of Health and Human Services, Administration for Community Living, Centers for Medicare and Medicaid Services
- K. **Name of Pass Through Entity (PTE):** California Department of Aging and County of Orange Office on Aging
- L. **Contact Information for the Awarding Official:** Ericka Danczak, Director (714) 480-6465, ericka.danczak@occr.ocgov.com
- M. **CFDA Number and Name:** #93.324 State Health Insurance Assistance Program (SHIP); #93.626 Affordable Care Act (ACA), State Health Insurance Assistance Program (SHIP) and Aging and Disability Resource Center (ADRC) Options Counseling for Medicare-Medicaid Individuals in States with Approved Financial Alignment; and #93.071 Medicare Enrollment Assistance Program
- N. **Whether Award is R&D:** No
- O. **Indirect Cost Rate for the Federal Award:** 10%