

Council on Aging Services for Seniors

Grant Agreement for

NUTRITION INFRASTRUCTURE

Funding Amount: **\$294,566.00**

Term: **10/15/2022 to 12/31/2024**

Agreement Number: AA-COA-NUTRINF-2224

Funding Source: CA Department of Aging -
Older Adults' Recovery and Resilience Fund - Home and Community Based Services

AGREEMENT FOR PROVISION OF SERVICES

This grant agreement ("Agreement"), dated as of October 15, 2022 ("Effective Date"), is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and Council on Aging Services for Seniors, a California non-profit Corporation, (hereinafter "Contractor").

RECITALS

WHEREAS, Contractor represents that it is duly qualified by reason of training, experience, equipment, organization, staffing, and facilities to utilize the grant funding provided by this Agreement to augment nutrition services for older adults, including congregate and home-delivered meal services, with approved infrastructure purchases; and

WHEREAS, The California Department of Aging Older Adults' Recovery and Resilience (OARR) - Home and Community Based Services (HCBS) Grant to the County prioritizes purchasing, upgrading, or refurbishing infrastructure for the production and distribution of congregate or home-delivered meals, including the purchase of commercial grade equipment (stoves, refrigerators, delivery vehicles, etc.); and

WHEREAS, in the judgment of the Board of Supervisors and Human Services Department it is necessary and desirable to provide OARR-HCBS grant funding to the Contractor for Nutritional Infrastructure as described herein;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1. **Scope of Services.**

1.1. **Contract Documents.** The following documents, if checked, and the provisions set forth therein are attached hereto and incorporated herein, and shall be dutifully performed according to the terms of this agreement:

☒ **Exhibit A: Scope of Work**

☒ **Exhibit B: Fiscal Provisions/
Accountability of Funds**

☒ **Exhibit C: Insurance Requirements**

☐ Exhibit D: Assurance of Compliance

☐ Exhibit E: Additional Federal Requirements

☐ Exhibit F: Professional
Licensure/Certification

☒ **Exhibit G: Promotional Materials
and Publications**

☐ Exhibit H: Accessibility

☐ Exhibit I: Data System Requirements

☐ Exhibit J: Adverse Actions/Complaint Procedures

1.2. Contractor's Specified Services. Contractor shall perform the services described in "Exhibit A: Scope of Work" (hereinafter "Exhibit A"), attached hereto and incorporated herein by this reference, and within the times or by the dates provided for in Exhibit A and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

1.3. Cooperation With County. Contractor shall cooperate with County and County staff in the performance of all work hereunder.

1.4. Performance Standard. Contractor shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of Contractor's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with County to review the quality of the work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.5. Assigned Personnel.

1.5.1. Contractor shall assign only competent personnel to perform work hereunder.

1.5.2. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Contractor shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County.

2. Payment.

For all services and incidental costs required hereunder, Contractor shall be paid in accordance with "Exhibit B: Fiscal Provisions/ Accountability of Funds" (hereinafter "Exhibit B"), attached hereto and incorporated herein by this reference. Contractor shall be paid an amount not to exceed Two Hundred Ninety-Four Thousand Five Hundred Sixty-Six Dollars (\$294,566.00), without the prior written approval of County. Expenses not expressly authorized by the Agreement shall not be reimbursed.

Unless otherwise noted in this agreement, payments shall be made within the normal course of county business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

2.1. Overpayment. If County overpays Contractor for any reason, Contractor agrees to return the amount of such overpayment to County at County's option, permit County to offset the amount of such overpayment against future payments owed to Contractor under this Agreement or any other agreement.

2.2. Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Contractor for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Contractor does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

2.2.1. If Contractor does not qualify, County requires that a completed and signed Form 587 be provided by the Contractor in order for payments to be made. If Contractor is qualified, then the County requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, the contractor agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Contractor has the option to provide County with either a full or partial waiver from the State of California.

3. Term of Agreement.

The term of this Agreement shall be from 10/15/2022 to 12/31/2024 unless terminated earlier in accordance with the provisions of Article 4 below.

4. Termination.

4.1. Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving five (5) days written notice to Contractor.

4.2. Termination for Cause. Notwithstanding any other provision of this Agreement, should Contractor fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving Contractor written notice of such termination, stating the reason for termination.

4.3. Change in Funding. Contractor understands and agrees that County shall have the right to terminate this Agreement immediately upon written notice to Contractor in the event that (1) any state or federal agency or other funder reduces, withholds, terminates or funds are not made available for which the County anticipated using to pay Contractor for services provided under this Agreement or (2) County has exhausted all funds legally available for payments due to become due under this Agreement.

4.4. Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Contractor, within 14 days following the date of termination, shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.5. Payment Upon Termination. Upon termination of this Agreement by County, Contractor shall be entitled to receive as full payment for all services

satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Contractor bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Contractor shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Article 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Contractor.

4.6. Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or the Director of the Human Services Department, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification.

Contractor agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Contractor, that arise out of, pertain to, or relate to Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Contractor's or its agents', employees, contractors, subcontractors, or invitees performance or obligations under this Agreement. Contractor's obligations under this Section apply whether or not there is concurrent negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. Subject to Contractor's approval, County shall have the right to select its legal counsel at Contractor's expense. Contractor may not reasonably withhold its approval. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance.

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in "Exhibit C: Insurance Requirements" (hereinafter "Exhibit C"), which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work.

The execution of this Agreement shall constitute Contractor's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Contractor's performance of this Agreement shall be extended by a number of days equal to the number of days Contractor has been delayed.

8. Extra or Changed Work.

Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Department Head in a form approved by County Counsel. The Board of Supervisors/Purchasing Agent must authorize all other extra or changed work. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Contractor to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Contractor shall be entitled to no compensation whatsoever for the performance of such work. Contractor further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of the County.

9. Representations of Contractor.

9.1. Standard of Care. County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

9.2. Status of Contractor. The parties intend that Contractor, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Contractor is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Contractor expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3. Subcontractors. No performance of this Agreement or any portion thereof, may be assigned or subcontracted without the express written consent of the County. Any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of the County shall be invalid and shall constitute a breach of this Agreement.

9.3.1. In the event the Contractor is allowed to subcontract, the County shall look to the Contractor for results of its subcontracts. The Contractor agrees to be responsible for all the subcontractor's acts and omissions to the same extent as if the subcontractors were employees of the Contractor. No subcontracts shall alter in any way any legal responsibility of the Contractor to the County. Whenever the Contractor is authorized to subcontract or assign, the terms of this Agreement shall prevail over those of any such subcontract or assignment.

9.4. No Suspension or Debarment. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Contractor becomes debarred, Contractor has the obligation to inform the County.

9.5. Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish County with proof of payment of taxes on these earnings.

9.6. Records Maintenance. Contractor shall keep and maintain full and complete program, client, and statistical documentation and financial records, subcontracts and other records concerning all services performed that are compensable under this Agreement and shall make such documents and records available at County's request for inspection at any reasonable time.

9.6.1. In compliance with the California Department of Aging Standard Agreement with the County (Agreement #NI-2223-27), Contractor shall retain all communications, grant related documents, data, original receipts, invoices, financial account documents, and records for seven (7) years following project termination or issuance of final payment, whichever is later. Additionally, if at the end of seven years, there is ongoing litigation or an outstanding audit involving those records, Contractor shall retain the records until resolution of the litigation or audit.

9.7. Monitoring, Assessment & Evaluation. Authorized federal, state and/or county representatives shall have, with advance notice and during normal business hours, the right to monitor, assess, evaluate, audit, and examine all administrative, financial and program performance activities and records of Contractor and its subcontractors pursuant to this Agreement. Said monitoring, assessment, evaluation, audit and examination may include, but is not limited to, administrative, financial, statistical, data and procurement processes, inspections of project premises, inspection of food preparation sites as appropriate, interviews of program staff and participants, and examination and/or duplication of records with respect to all matters covered by this Agreement. Contractor shall cooperate with County in this process and shall make program and administrative staff available during any monitoring, assessment, evaluation, audit or examination.

9.8. Conflict of Interest. Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by County, Contractor shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Contractor's or such other person's financial interests.

9.9. Statutory Compliance/Living Wage Ordinance. Contractor agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies – including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Contractor expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

9.10. Nondiscrimination. Without limiting any other provision hereunder, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment practices and in delivery of services because of race, color, ancestry, national origin (including limited English proficiency), religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender status, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding, sex stereotyping), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category or prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.10.2. Contractor shall provide County with a copy of their Equal Employment Opportunity and Affirmative Action policies upon request and shall sign and submit to County an Assurance of Compliance, attached hereto as "Exhibit D: Assurance of Compliance" (hereinafter "Exhibit D"), and incorporated by this reference, in order to certify that contractor is in compliance with the State and Federal laws related to equal employment opportunity and delivery of services.

9.10.3. Contractor and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

9.10.4. Any and all subcontracts to perform work under this Agreement shall include the nondiscrimination and compliance provisions of this article and subcontractors shall agree to, sign and submit to Contractor a copy of the Assurance of Compliance, Exhibit D. Contractor shall maintain copies of these Assurances and submit copies to County upon County's request.

9.11. AIDS Discrimination. Contractor agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

9.12. Confidentiality. Contractor agrees to maintain the confidentiality of all client information in accordance with all applicable state and federal laws and regulations, including the requirement to implement reasonable and appropriate administrative, physical, and technical safeguards to protect all confidential information. Contractor shall be in compliance with all State and Federal regulations pertaining to the privacy

and security of personally identifiable information (hereinafter "PII") and/or protected health information (hereinafter "PHI").

9.12.1. Contractor agrees to comply with the provisions of 45 Code of Federal Regulations 205.50, Section 10850 of the Welfare and Institutions Code, and Division 19 of the California Department of Social Services Manual of Policies and Procedures to assure that all records are confidential, and will not be open to examination for any purpose not directly connected with the administration of any public social services program.

9.12.2. Contractor shall protect from unauthorized disclosure, confidential, sensitive and/or personal identifying information, concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any client. The Contractor shall not use such information for any purpose not directly connected with the administration of the services provided herein. The Contractor shall promptly transmit to the County all requests for disclosure of such information not emanating from the client. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client in writing, any such information to anyone other than the County without prior written authorization from the County. "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 voice print or a photograph.

9.12.3. No person will publish, disclose or use or permit or cause to be published, disclosed or used any confidential information pertaining to an applicant, recipient, or client.

9.12.4. Contractor agrees to inform all employees, agents and partners of the provisions and that any person knowingly and intentionally violating the provisions of this Article may be guilty of a misdemeanor.

9.12.5. Contractor understands and agrees that this Article shall survive any termination or expiration of this Agreement in accordance with 9.6 above.

9.13. Information Security. In addition to any other provisions of this Agreement, all parties to this Agreement shall be responsible for ensuring that electronic media containing confidential and sensitive client data is protected from unauthorized access. Contractor agrees to report any suspected security incident or suspected breach of PHI, PII or other confidential information within twenty-four (24) hours to the County via email to Privacy&Security@sonoma-county.org.

9.13.1. Contractor shall ensure that all computer workstations, laptops, tablets, smart-phones and other devices used to store and transmit confidential client data and information are: 1) physically located in areas not freely accessible to or in open view of persons not authorized to have access to confidential data and information, 2) protected by unique secure passwords, and 3) configured to automatically lock or timeout after no more than 30 minutes of inactivity. Contractor shall ensure that users of such computing devices log off or lock their device before leaving it unattended or when done with a session.

9.13.2. Contractor shall encrypt all confidential client data, whether for storage or transmission on portable and non-portable computing and storage devices using non-proprietary, secure, generally-available encryption software. Proprietary

encryption algorithms will not be acceptable. Such devices shall include, but not be limited to, desktop, laptop or notebook computers, optical or magnetic drives, flash or jump drives, and wireless devices such as cellular phones and other handheld computing devices with data storage capability.

9.13.3. Contractor shall ensure all electronic transmission of confidential client data sent outside a secure private network or secure electronic device via email, either in the body of the email or in an attachment, or sent by other file transfer methods is sent via an encrypted method.

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

9.13.5. Contractor shall 1) perform regular backups of automated files and databases, and 2) destroy or wipe all confidential client data from all electronic storage media and devices in a manner that prevents recovery of any and all confidential client data in accordance with Article 9.6 above.

9.13.6. All information security requirements stated herein shall be enforced and implemented immediately upon execution of this agreement, and continue beyond the term of the Agreement in accordance with Article 9.6. above.

9.14. Political and Sectarian Activities. Contractor warrants as follows: (a) it shall comply with requirements that no program under this Agreement shall involve political or lobbying activities; (b) it shall not employ or assign participants in the program to any sectarian facility, except as provided by federal and state law or regulation; (c) it shall not use funds made available under this Agreement for political or lobbying activities.

9.15. Drug-Free Workplace. Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by complying with all requirements set forth in the Act.

9.16. Facilities. Contractor warrants that all of the Contractor's facilities: (a) will be adequately supervised, (b) will be maintained in a safe and sanitary condition, (c) will be available for monitoring by County and/or state and federal monitors, (d) are accessible to handicapped individuals if appropriate, and (e) are nonsectarian.

9.17. Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Contractor.

10. Prevailing Wage.

With respect to any portion of the Project that constitutes the performance of a "public work" within the meaning of Labor Code section 1720, Contractor shall comply and shall require compliance of any subcontractors with all applicable wage and hour laws, including without limitation Labor Code Sections 1775, 1776, 1777.5 1813 and 1815 and California Code of Regulations, Title 8, Section 16000, *et seq.*

11. Demand for Assurance.

Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not

been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

12. Assignment and Delegation.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

13. Method and Place of Giving Notice.

All notices shall be made in writing and shall be given by personal delivery or by U.S. Mail. Notices shall be addressed as follows:

TO COUNTY: County of Sonoma, Human Services Department
Contracts Unit
3600 Westwind Boulevard
Santa Rosa, CA 95403
contracts@schsd.org

TO CONTRACTOR: Council on Aging Services for Seniors
30 Kawana Springs Road
Santa Rosa, CA, 95404-6309

When a notice is given by a generally recognized overnight courier service, the notice shall be deemed received on the next business day. When a copy of a notice or payment is sent by facsimile or email, the notice shall be deemed received upon transmission as long as (1) the original copy of the notice is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email, (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

14. Miscellaneous Provisions.

14.1. No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

14.2. Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event

that any provision of this Agreement 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. Contractor and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

14.3. Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

14.4. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

14.5. Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

14.6. Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

14.7. Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

14.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

14.9. Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

14.10. Counterpart; Electronic Signatures. The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially-available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONTRACTOR

Council on Aging Services for Seniors

By: 
Name: Marianne McBride
Title: President & CEO

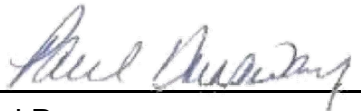
Date: 10/13/2022

COUNTY OF SONOMA

By: _____
Name: Angela Struckmann
Title: Director, Human Services
Department

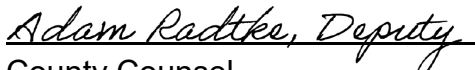
Date: _____

APPROVED AS TO SUBSTANCE FOR
COUNTY

By: 
Name: Paul Dunaway
Title: Director, Adult & Aging Services
Division

☐ EXEMPT FROM COUNTY COUNSEL
REVIEW

APPROVED AS TO FORM FOR COUNTY

By: 
County Counsel

☒ CERTIFICATES OF INSURANCE ON FILE
WITH COUNTY

☐ INSURANCE REQUIREMENT CHANGES
APPROVED, WAIVED, OR EXEMPTED BY
RISK MANAGEMENT

By: 

Exhibit A: Scope of Work

1. Grant Agreement:

- 1.1. This Grant Agreement is established between the County of Sonoma Human Services Department – Area Agency on Aging and Council on Aging Services for Seniors.
- 1.2. The County acknowledges it may make reasonable changes to its procedures in support of this grant and its requirements. If the County makes any changes to its procedures and guidelines, the County agrees to notify Contractor within a reasonable timeframe.
- 1.3. The Contractor is solely responsible for all activities supported by the Grant.
- 1.4. Nothing in this Agreement creates a partnership, agency, joint venture, employment, or any other type of relationship between the parties.

2. Grant Period:

- 2.1. All tasks, purchases, and work performed must be completed during the grant period ending December 31, 2024. No invoices for purchases completed after December 31, 2024 will be paid.

3. Authorized Expenditures:

- 3.1. Contractor has been approved for expenditures on the following items to total no more than the grant award amount set out in Article 2 of this Agreement:

Item Descriptions
Cleveland Natural Gas 40 Gallon PowerPan Open Base Tilt Skillet
Hobart Single Tank Hight Temperature Conveyor Dish Machine
Globe Heavy Duty Meat Slicer
Multiple Food Processing blades
Serving Equipment-Cambro combo Carrier
Cambro Hot Plates
Cambro Ultra Pan Carriers Top loading
ThermoPop Thermometers
Camdollies
No Contact Thermometer
Thermapen
Stainless steel pot- 3quart
Talking thermometer
Microwave
Meyers Third Pans-6"
Meyers Nonstick Sauté Pan 8"
Gray Portion Scoops #8
Third Pans-4"
Half Pans
Third Pan lids
Third Pans-2.5"
Fish Spatula
Food Service Tray-Plastic
Half Pan lids
Rubber Spatula-Long handle

Item Descriptions
8" Chef Knife + cover
Oven mint
Slotted Serving Spoon-Long Handle
E-Transit Ford Cargo Vans (3) - including Tax, Delivery, license & registration
Electric Nissan LEAF vehicle - including Tax & License

3.2. The California Department of Aging (CDA) grant to the County of Sonoma prioritized the purchasing, upgrading, or refurbishing infrastructure for the production and distribution of congregate or home-delivered meals, that included but was not limited to:

- a) Production-scale commercial kitchens including commercial grade equipment such as ovens, stoves, steamers, and mixers
- b) Warming, refrigeration, or freezer capacity and equipment including refrigerators and freezers, hot holding equipment, insulated food delivery bags, and steam tables
- c) Food delivery vehicles including cars, trucks, vans, and temperature-controlled vehicles
- d) Improvements and equipment to expand capacity for providers of meals including food/meal packing equipment, dishwashers, 3-compartment sinks, prep tables, steam tables, and salad bars
- e) Refurbishments including repair or replacement of damaged and/or deteriorated flooring and/or repair and painting of damaged wall surfaces in areas where food is prepared, packaged, stored, or served including areas where kitchenware are washed and stored

The County will verify flooring or painting is not covered under a building lease prior to reimbursing use of infrastructure funding for this purpose and will maintain documentation in case of grant monitoring or audit.

- f) Energy efficient light fixtures in kitchen or congregate meal service areas
- g) Installation costs (labor/materials) for allowable improvements and equipment
- h) Furniture, including table and chairs, for congregate meal service areas
- i) Technological or data system infrastructure for monitoring client health outcomes including computing devices, workstations, servers, laptops, personal digital assistants, notebook computers, tablets, and software programs for data entry and/or monitoring of client data and health outcomes

3.3. The CDA and County require that Contractor not use this funding to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. This includes any equipment that is permanently affixed to a building such as non-portable generators, walk-in refrigerators, and walk-in freezers.

4. County Responsibilities:

- 4.1. The County Contract Manager will coordinate dates and information between the County and the Contractor.
- 4.2. The County Contract Manager shall provide all information required to the Contractor.
- 4.3. The County Contract Manager shall communicate any additional information on grant requirements or revisions to Contractor.
- 4.4. The County shall make payments in accordance with Article 2 and Exhibit B of this Agreement.

5. Reporting:

- 5.1. No service units are provided under this grant.
- 5.2. Contractor must provide invoices for all purchases of goods incurred under this grant agreement no later than the last business day of each month.

6. Service Provider Meetings:

The AAA hosts Service Provider meetings to share information with service providers (Contractors). It is recommended that Service Providers also attend the monthly full AAA Advisory Council meetings. Meetings are held the 3rd Wednesday of each month at 1:00 pm. Contractor may wish to attend and can designate a representative to attend Service Provider meetings. Should a representative like to attend, Contractor will notify AAA Program Staff.

Exhibit B: Fiscal Provisions/ Accountability of Funds

1. Fiscal Provisions:

- 1.1. The total amount payable to Contractor pursuant to this Agreement shall not exceed the grant award amount set out in Article 2 of this Agreement.
- 1.2. It is agreed and understood that this grant award amount is a ceiling and that the County will only reimburse the allowable cost of goods purchased as authorized by the County and California Department of Aging (CDA).
- 1.3. Contractor agrees to submit to County invoices for all purchases of goods incurred under this grant agreement no later than the last business day of each month. Failure to comply may, at County's sole discretion, result in non-payment.
- 1.4. Invoices must include Contractor name, address, phone number, detailed and itemized purchased items, and expenditure amount; invoices shall be submitted to:

County of Sonoma Human Services Department
Attn: A&A Accounting Staff
3600 Westwind Boulevard
Santa Rosa, CA 95403
- 1.5. No expenditure shall be made nor obligation incurred in excess of the authorized unit cost. Any expenditure hereunder by Contractor which is not within the limitations of the unit costs as set forth in this Agreement shall not be chargeable to County. Any such unauthorized expenditure shall be borne by Contractor.
- 1.6. Contractor agrees that reimbursement for goods under this Agreement made in accordance with submitted plans, represents payment in full for said service. Contractor shall not seek reimbursement from County for any goods reimbursed in whole or in part by any other payor.
- 1.7. No request for payment of funds shall be approved by County's representative until invoices required under this Agreement have been filed by Contractor.
- 1.8. Within thirty (30) days after the termination of this Agreement, Contractor shall provide County with an ending financial statement, including all expenses. Such statement shall be signed by Contractor's representative.
- 1.9. In the event Contractor receives payment for goods as to which payment is disallowed by the County or to County by the State of California, Contractor shall promptly refund the disallowed amount to County on request, except that County may at its option offset the amount disallowed from any payments due or to become due to Contractor.

2. Expenditures and Accountability of Funds:

- 2.1. Contractor shall expend all funds received hereunder in accordance with this Agreement.
- 2.2. Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor and shall be maintained in accordance with Generally Accepted Accounting Principles.

2.3. The County reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by the County, if Contractor: is found to be out of compliance with this Agreement; has submitted costs for unapproved items/activities, does not present adequate supporting documentation, or does not request or was not granted prior approval as required.

3. Costs

3.1. Contractor shall complete purchases of goods as described in Exhibit A of this Agreement.

3.2. Contractor shall be reimbursed on a cost basis for the items set forth below as previously approved by the County and CDA.

Item Descriptions/Total Costs
Cleveland Natural Gas 40 Gallon PowerPan Open Base Tilt Skillet
Hobart Single Tank Hight Temperature Conveyor Dish Machine
Globe Heavy Duty Meat Slicer
Multiple Food Processing blades
Serving Equipment-Cambro combo Carrier
Cambro Hot Plates
Cambro Ultra Pan Carriers Top loading
ThermoPop Thermometers
Camdollies
No Contact Thermometer
Thermapen
Stainless steel pot- 3quart
Talking thermometer
Microwave
Meyers Third Pans-6"
Meyers Nonstick Sauté Pan 8"
Gray Portion Scoops #8
Third Pans-4"
Half Pans
Third Pan lids
Third Pans-2.5"
Fish Spatula
Food Service Tray-Plastic
Half Pan lids
Rubber Spatula-Long handle
8" Chef Knife + cover
Oven mitt
Slotted Serving Spoon-Long Handle
E-Transit Ford Cargo Vans (3) - including Tax, Delivery, license & registration
Electric Nissan LEAF vehicle - including Tax & License
TOTAL: \$294,566.00

4. Instructions to Contractor:

The County shall reimburse Contractor with funding that has been appropriated, designated, encumbered, or otherwise made available for payment by CDA under this Agreement. The following applies to all funding within this Agreement:

- a) Contractor shall submit monthly expenditures to the County, no later than the last business day of each month.
- b) Payments will be made to reimburse monthly expenditures reported. The County shall process and approve reported expenditures that are based upon actual, not estimated expenditures. The County shall notify the Contractor of any disputed expenditures.
- c) The Contractor shall submit timely expenditures to the County. Late expenditures may lead to delay payment until the following month.
- d) Upon written request by the County, Contractor shall submit additional documentation or justification to support the reported expenditure.
- e) Contractor shall ensure that budgeted funds are expended before the expiration of this Agreement.

Exhibit C: Insurance Requirements

Contractor shall maintain and require all of its subcontractors and other agents to maintain the insurance listed below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Contractor shall not commence Work, nor allow its employees, subcontractors or anyone to commence Work until the required insurance has been submitted and approved by County. Any requirement for Contractor to maintain insurance after completion of the Work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. County's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or County's failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

- a. Required if Contractor has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against County.
- e. *Required Evidence of Insurance:*
 - i. Subrogation waiver endorsement; and
 - ii. Certificate of Insurance.

If Contractor currently has no employees as defined by the Labor Code of the State of California, Contractor agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should any employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project. The required limits may be satisfied by a combination of General Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County. Contractor is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving the County.

- d. Insurance shall be continued for one (1) year after completion of the Work.
 - e. **The County of Sonoma, its Officers, Agents and Employees** shall be endorsed as additional insureds for liability arising out of ongoing and completed operations by or on behalf of the Contractor in the performance of this Agreement. The foregoing shall continue to be additional insureds for one (1) year after completion of the Work under this Agreement.
 - f. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
 - g. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
 - h. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against County.
 - i. The policy shall cover inter-insured suits between the additional insureds and Contractor and include a "separation of insureds" or "severability" clause which treats each insured separately.
 - j. ***Required Evidence of Insurance:***
 - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
 - ii. Certificate of Insurance.
3. **Automobile Liability Insurance**
- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be satisfied by a combination of Automobile Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance.
 - b. Insurance shall cover all owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
 - c. Insurance shall cover hired and non-owned autos.
 - d. ***Required Evidence of Insurance:*** Certificate of Insurance.
4. **Standards for Insurance Companies**
Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.
5. **Documentation**
- a. Contractor shall submit all required Evidence of Insurance prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with County as specified in Sections 1 – 3 above.
 - b. The name and address for Additional Insured endorsements and Certificates of Insurance is:

The County of Sonoma, its Officers, Agents and Employees
3600 Westwind Blvd.
Santa Rosa, CA 95403

or pdf to:

contracts@schsd.org

- c. Contractor shall submit required Evidence of Insurance for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- d. Contractor shall provide immediate written notice if: (1) any of the required insurance policies are terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- e. Upon written request, Contractor shall provide certified copies of required insurance policies within thirty (30) days.

6. Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

7. Material Breach

If Contractor fails to maintain insurance which is required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

Exhibit G: Promotional Materials and Publications

The Centers for Medicare and Medicaid Services (CMS), the California Department of Aging (CDA), and the County of Sonoma shall be acknowledged in all promotional materials and publications related to the funded project.

- i. Contractors must ensure that CDA and County receive full credit as the funding programs and that the CMS is acknowledged as the source of funds.
- ii. Publications and information releases about the project must credit Home and Community Based Services. An appropriate statement for a publication or project press release is:
 - 1) "This [publication/project] was supported in whole or in part by the Centers for Medicare and Medicaid Services (CMS), the California Department of Aging (CDA), and the County of Sonoma and no official endorsement by the CMS, the CDA or the County of Sonoma shall be inferred."
- iii. This credit line on products of a project, such as materials and publicity, is important to foster support from the public and by local, state and federal funding sources.