July 8, 2014

The Honorable Board of Supervisors
County Administration Building
1221 Oak St.
Oakland, CA 94612

Dear Board Members:

SUBJECT: APPROVAL OF FIRST AMENDMENT OF THE STANDARD SERVICES AGREEMENT WITH ALAMEDA HEALTH SYSTEM TO EXTEND THE TERM FOR RESPITE CARE AND WELLNESS SUPPORT SERVICES FOR HOMELESS RESIDENTS

RECOMMENDATIONS

Approve the First Amendment of the Standard Services Agreement (Procurement Contract No. 8719) with Alameda Health System (Principal: Wright Lassiter; Location: Oakland) to complete respite care and wellness support services for homeless residents, extending the contract term from 4/1/13 - 6/30/14 to a new end date of 12/31/14, an extension of 6 months, with no change in the contract amount of $100,000

DISCUSSION/SUMMARY

On April 23, 2013, your Board approved a Standard Services Agreement with Alameda Health System (AHS) (formerly Alameda County Medical Center) to establish the Respite Care and Wellness Support Pilot Program. Due to hiring delays the program started in October 2013 instead of the anticipated April 2013, therefore, an amendment is necessary to complete respite care services.

AHS has partnered with East Oakland Community Project ("EOCP") and Health Care for the Homeless to address the needs of the AHS hospitalized population who are homeless or sub-adequately housed through a facility that provides short-term medical respite beds with linkages to long-term housing and supportive services.

Homeless clients admitted to AHS for acute care services are screened and evaluated for placement within the medical respite services program at the EOCP shelter. Clients are admitted to short-term case management and support (30-90 days) at the AHS, which focuses on ensuring the clients’ safe transition from the acute care to the ambulatory setting. Staff at AHS address clients’ bio/psycho/social needs during their medical recuperative period and coordinate their efforts with program staff at EOCP respite care unit so that a seamless handoff of care occurs to that facility. Program staff at EOCP work towards physically stabilizing respite care clients and motivate them to secure housing, benefits, employment, and other needed supportive services, such as substance abuse and mental health counseling. Referred clients can stay up to two weeks at the respite care...
unit with a possibility of extending their stay on a case-by-case basis. As of 5/14/14, the total number of patients served in Respite Care is 36. The program began seeing patients on 10/1/13.

**SELECTION CRITERIA**

*Alameda Health System is part of a network that constitutes the Alameda County Indigent Care Provider Network. AHS is the only provider in the network to provide Inpatient, Emergency Room, and Specialty Care outpatient services. Health Care Services Agency has had longstanding contractual relationship for indigent health services with AHS. AHS is a non-profit organization that provides direct health care services and is therefore exempt from the Small, Local, and/or Emerging Business (SLEB) Program requirements.*

**FINANCING**

Funding for this contract comes from the Tobacco Master Settlement Trust fund No. 83417. Approval of these recommendations will have no impact on county General Fund revenue.

Sincerely,

[Signature]

Alex Briscoe, Director
Health Care Service Agency
FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement ("First Amendment") is made by the County of Alameda ("County") and Alameda Health System (formerly Alameda County Medical Center) ("Contractor") with respect to that certain agreement entered by them on April 1, 2013 (referred to herein as the "Contract") pursuant to which Contractor provides medical respite care and wellness support services to County.

County and Contractor agree as follows:

1. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Contractor agree to amend the Agreement in the following respects:
   - Extend the contract term to end on December 31, 2014, an extension of 6 months.
   - Extend all deliverable dates that reference June 30, 2014 to December 31, 2014.
   - Include Exhibit E, Department of Health Care Services (DHCS) HIPAA Business Associate Agreement.

2. Except as otherwise stated in this First Amendment, the terms and provisions of this Amendment will be effective as of the date this First Amendment is executed by the County ("Effective Date").

3. The term of the Agreement is currently scheduled to expire on June 30, 2014. As of the Effective Date, the term of the Agreement is extended through December 31, 2014.

4. All dates that reference June 30, 2014 in Exhibit A of the Contract are hereby amended to read December 31, 2014.
5. A Revised Exhibit B, Payment Terms, which is incorporated into this Contract by this reference, is attached to this Amendment.

6. DEBARMMENT AND SUSPENSION CERTIFICATION:

a. By signing this First Amendment and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

7. Except as expressly modified by this First Amendment, all of the terms and conditions of the Contract are and remain in full force and effect.
IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

By: ________________________________
Signature

Name: KEITH CARSON
(Printed)

Title: President of the Board of Supervisors

Approved as to Form, DONNA ZIEGLER, County Counsel for the County of Alameda:

By: ________________________________
Raymond Lara
Senior Deputy County Counsel

ALAMEDA HEALTH SYSTEM

By: ________________________________
Signature

Name: Richard Gianello
(Printed)

Title: Chief Financial Officer

Date: 7/1/14

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.
A. **Budget Summary** (April 1, 2013 to December 31, 2014)

### ACMC Budget

**BEST PROJECT PROPOSAL BUDGET**

<table>
<thead>
<tr>
<th>Project Name: Respite Care and Wellness Support Pilot Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Period: March 1, 2013-December 31, 2014</td>
</tr>
</tbody>
</table>

#### Labor

<table>
<thead>
<tr>
<th>Position Title</th>
<th>ACHSA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensed Vocational Nurse, Program Coordinator</td>
<td>$20,625.00</td>
</tr>
<tr>
<td>Residential Advisors/Health Technicians</td>
<td>$36,093.75</td>
</tr>
<tr>
<td>On-call Registered Nurse</td>
<td>$4,687.50</td>
</tr>
<tr>
<td>Registered Advisors</td>
<td>$8,750.00</td>
</tr>
<tr>
<td>Lead Case Manager</td>
<td>$2,812.50</td>
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<tr>
<td>Substance Abuse Counselor</td>
<td>$3,468.75</td>
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<tr>
<td><strong>Labor Subtotal</strong></td>
<td>$76,437.50</td>
</tr>
</tbody>
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#### Non-Labor Expenses

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<thead>
<tr>
<th>Expense</th>
<th>ACHSA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bed Accessories</td>
<td>$895.00</td>
</tr>
<tr>
<td>Database development/management</td>
<td>$500.00</td>
</tr>
<tr>
<td>Cleaning supplies</td>
<td>$300.00</td>
</tr>
<tr>
<td>Food</td>
<td>$6,250.00</td>
</tr>
<tr>
<td>First aid/Medical Supplies</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Printing/copying/postage</td>
<td>$175.00</td>
</tr>
<tr>
<td>Office supplies</td>
<td>$150.00</td>
</tr>
<tr>
<td>Telephone</td>
<td>$200.00</td>
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<tr>
<td>Transportation</td>
<td>$2,000.00</td>
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<tr>
<td>Other</td>
<td>$481.00</td>
</tr>
<tr>
<td>Overhead (@12%)</td>
<td>$11,111.50</td>
</tr>
<tr>
<td><strong>Non-Labor Subtotal</strong></td>
<td>$23,562.50</td>
</tr>
</tbody>
</table>

**Totals** $100,000.00

*COUNTY is not obligated to pay actual expenses exceeding the amount of this contract ($100,000).
B. **Reimbursement**
   a. The total amount of payment under the terms of this Agreement shall not exceed one hundred thousand dollars ($100,000). Funds may not be used for any purpose other than those specified in Exhibit A of this Agreement without prior written approval from the Health Care Services Agency HealthPAC Policy Director or her designee.

   b. County shall pay the Contractor 50% ($50,000) upon fully executed contract with submitted invoice.

   c. The term of this Agreement is from April 1, 2013 through December 31, 2014.

   d. County shall pay the Contractor a final payment of fifty thousand dollars ($50,000) only after completing the following deliverables:
      - Provided respite care to 75 individuals, by December 31, 2014. Of those 90% will have been connected to a medical home within 90 days of discharge from the hospital, and 80% will have been connected to additional supportive services.
      - Provided a return on investment cost analysis and sustainability plan to HCSA showing how many patients were served and the projected savings from having served those clients.

   e. Final invoice shall be submitted for review and approval for payment by the Health Care Services Agency HealthPAC Policy Director. The final invoice shall not exceed the contract amount.

   f. County shall use its best efforts to process invoice submitted for reimbursement by contractor within ten (10) working days of receipt of invoice and any other back up documentation requested.

C. **Invoicing Procedures**
   a. Contractor shall invoice the County in accordance with the schedule of payment in Section B above. Invoice with an original signature should be sent to:

      ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
      ATTN: HEALTHPAC POLICY DIRECTOR, RACHEL METZ
      1000 SAN LEANDRO BLVD., STE. 300
      SAN LEANDRO, CA 94577
CERTIFICATE OF COVERAGE

Named Member:
Alameda Health System
1411 E. 31st Street
Oakland, CA 94602

Broker:
James & Gable Insurance Brokers
1660 Olympic Blvd. Suite 325
Walnut Creek CA 94596
925-943-3264

Certificate Number Effective Date Certificate Holder: Authorized Representative:
HCL-14-067 7/1/2014 at 12:01 a.m. Authorized Representative:

Expiry Date Retroactive Date
7/1/2015 at 12:01 a.m. 7/1/1998 at 12:01 a.m.

Type of Coverage:
X Professional Liability - Claims Made and Reported
X General Liability - Occurrence

Limits of Liability:
$1,000,000 Per Claim
$2,000,000 Aggregate Per Contract Period

Deductible:
$100,000 Per Claim
NONE Aggregate Per Contract Period

Description of Coverage:
Evidence of Healthcare Entity Professional and General Liability coverage is extended to County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and volunteers as supplemental member(s) as pertaining to the Respite Care and Wellness Support Pilot Program.

Issue Date: June 26, 2014

Certificate Holder:
Risk Management Unit
125 12th Street, 3rd Floor
Oakland, CA 94607

Authorized Representative:
R. Corey Grove
Vice President, Underwriting and Client Services

the retroactive date applies to claims made coverage only
**CERTIFICATE OF COVERAGE**

<table>
<thead>
<tr>
<th>Named Member:</th>
<th>Alameda Health System</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1411 E. 31st Street</td>
</tr>
<tr>
<td></td>
<td>Oakland, CA 94602</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Broker:</th>
<th>James &amp; Gable Insurance Brokers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1660 Olympic Blvd. Suite 325</td>
</tr>
<tr>
<td></td>
<td>Walnut Creek CA 94596</td>
</tr>
<tr>
<td></td>
<td>925-943-3264</td>
</tr>
</tbody>
</table>

This document certifies that coverage is in force for the Named Member on the Issue Date below, subject to the terms and conditions of the Contract designated. It is issued as a matter of information and does not confer any rights to any Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded under the Contract. If the Contract, or coverage for any Member, is canceled for any reason or if the terms of the Contract are changed, we will notify the Named Member only. Coverage is not in effect unless and until all payments are received when due.

<table>
<thead>
<tr>
<th>Certificate Number</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Retroactive Date</th>
</tr>
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<tbody>
<tr>
<td>D&amp;O-14-067</td>
<td>7/1/2014 at 12:01 a.m.</td>
<td>7/1/2015 at 12:01 a.m.</td>
<td>7/1/2001 at 12:01 a.m.</td>
</tr>
</tbody>
</table>

**Limits of Liability:**
- Directors & Officers Liability - Claims Made: $1,000,000 Per Claim
- Employment Practices Liability - Claims Made: $1,000,000 Aggregate Per Contract Period

**Deductible:**
- Coverage (A): $0 each Claim
- Coverage (B) & (C): $100,000 Each Claim Including Defense Expenses
- Coverage (D): $100,000 Each Claim Including Defense Expenses
- Coverage (E): $0 each Claim

**Description of Coverage:**
Evidence of Directors, Officers and Trustees Liability coverage is extended to County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and volunteers as supplemental member(s) as pertaining to the Respite Care and Wellness Support Pilot Program.

**Issue Date:** June 26, 2014

**Certificate Holder:**
Risk Management Unit
125 12th Street, 3rd Floor
Oakland, CA 94607

**Authorized Representative:**
R. Corey Grove
Vice President, Underwriting and Client Services
CERTIFICATE OF COVERAGE

Named Member:  
Alameda Health System  
1411 E. 31st Street  
Oakland, CA 94602

Broker:  
James & Gable Insurance Brokers  
1660 Olympic Blvd, Suite 325  
Walnut Creek CA 94596  
925-943-3264

This document certifies that coverage is in force for the Named Member on the Issue Date below, subject to the terms and conditions of the Contract designated. It is issued as a matter of information and does not confer any rights to any Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded under the Contract. If the Contract, or coverage for any Member, is canceled for any reason or if the terms of the Contract are changed, we will notify the Named Member only. Coverage is not in effect unless and until all payments are received when due.

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<tr>
<td>AL-14-067</td>
<td>7/1/2014 at 12:01 a.m.</td>
<td>7/1/2015 at 12:01 a.m.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Type of Coverage:  
[X] Automobile Liability and Physical Damage Coverage - Occurrence

Limits of Liability:  
$1,000,000 Each Accident, Combined Single Limit

The Combined Single Limit is subject to the following limits:  
- Bodily Injury and Property Damage Liability $1,000,000 Each Accident  
- Uninsured/Underinsured Motorist $1,000,000 Each Accident  
- Medical Payments $5,000 Each Accident

Deductibles:  
- Comprehensive: $250 Each Loss  
- Collision: $500 Each Loss

Description of Coverage:  
Evidence of Auto Liability is extended to County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives as supplemental member(s) as pertaining to Master Contract No. 900077- Health Program of Alameda County, ("HealthPAC").

Issue Date: June 26, 2014

Certificate Holder:  
County of Alameda  
125 - 12th Street, 3rd Floor  
Oakland, CA 94607  
Attention: Risk Management Unit

Authorized Representative:  
R. Corey Grove  
Vice President, Underwriting and Client Services

BETA Risk Management Authority  1443 Danville Boulevard  Alamo, CA 94507-1973  (925) 838-6070
### Certificate of Coverage

**Named Member:**
Alameda Health System  
1411 E. 31st Street  
Oakland, CA 94602

**Broker:**
James & Gable Insurance Brokers  
1660 Olympic Blvd. Suite 325  
Walnut Creek CA 94596  
925-943-3264

This document certifies that coverage is in force for the Named Member on the Issue Date below, subject to the terms and conditions of the Contract designated. It is issued as a matter of information and does not confer any rights to any Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded under the Contract. If the Contract, or coverage for any Member, is canceled for any reason or if the terms of the Contract are changed, we will notify the Named Member only. Coverage is not in effect unless and until all payments are received when due.

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<td>7/1/2015 at 12:01 a.m.</td>
<td>7/1/1998 at 12:01 a.m.</td>
</tr>
</tbody>
</table>

**Type of Coverage:**
- [X] Professional Liability - Claims Made and Reported  
- [ ] General Liability - Occurrence

**Limits of Liability:**
- $1,000,000 Per Claim  
- $2,000,000 Aggregate Per Contract Period

**Deductible:**
- $100,000 Per Claim  
- NONE Aggregate Per Contract Period

**Description of Coverage:**
Evidence of Healthcare Entity Professional and General Liability is extended to County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives as supplemental member(s) as pertaining to Master Contract No. 900077- Health Program of Alameda County, ("HealthPAC").

**Issue Date:** June 26, 2014

**Certificate Holder:**  
County of Alameda  
125 - 12th Street, 3rd Floor  
Oakland, CA 94607  
Attention: Risk Management Unit

**Authorized Representative:**
R. Corey Grove  
Vice President, Underwriting and Client Services

The retroactive date applies to claims made coverage only.
October 8, 2013

Ms. Meay Saechao Tubtim
Alameda County Health Care Services Agency
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577

Dear Ms. Tubtim:

Alameda Health System is currently self-insured (Certificate # A786220011-001) for workers' compensation with retention of $2,000,000 and carries excess liability coverage as a member of CSAC Excess Insurance Authority (EIA), a joint powers insurance pool operating in California. The EIA was established as a joint powers authority (JPA) in October 1978 and became operational in November 1979. The EIA was formed pursuant to Article I, Chapter 5, Division 7, Title 1, of the California Government Code (Section 6500 et seq.).

Alameda Health System is currently utilizing the services of a Third Party Administrator (Athens Administrators) to provide the usual and customary workers' compensation claims administration services.

If you have additional questions, please do not hesitate to contact me at (510) 346-7537.

Sincerely,

[Signature]
Greg Stephens, M.S., C.P.D.M.
Disability Program Manager
EXHIBIT D

COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named or unnamed subcontractor:

• Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligible by any federal agency;
• Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
• Does not have a proposed debarment pending; and
• Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessary result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: Alameda Health System

PRINCIPAL: Richard Gianello  TITLE: Chief Financial Officer

SIGNATURE: [Signature] DATE: 7/11/14
EXHIBIT E

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Exhibit, the HIPAA Business Associate Agreement ("Exhibit") supplements and is made a part of the underlying agreement ("Agreement") by and between the County of Alameda, ("County" or "Covered Entity") and Alameda Health System, ("Contractor" or "Business Associate") to which this Exhibit is attached. This Exhibit is effective as of the effective date of the Agreement.

I. RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"); Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), the regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations"), and other applicable laws; and

The Privacy Rule and the Security Rule in the HIPAA Regulations require Covered Entity to enter into a contract, containing specific requirements, with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and as contained in this Agreement.

II. STANDARD DEFINITIONS

Capitalized terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those terms are defined in the HIPAA Regulations. In the event of an inconsistency between the provisions of this Exhibit and the mandatory provisions of the HIPAA Regulations, as amended, the HIPAA Regulations shall control. Where provisions of this Exhibit are different than those mandated in the HIPAA Regulations, but are nonetheless permitted by the HIPAA Regulations, the provisions of this Exhibit shall control. All regulatory references in this Exhibit are to HIPAA Regulations unless otherwise specified.

The following terms used in this Exhibit shall have the same meaning as those terms in the HIPAA Regulations: Data Aggregation, Designated Record Set, Disclosure, Electronic Health Record, Health Care Operations, Health Plan, Individual, Limited Data Set, Marketing, Minimum Necessary, Minimum Necessary Rule, Protected Health Information, and Security Incident.
The following term used in this Exhibit shall have the same meaning as that term in the HITECH Act: Unsecured PHI.

III. SPECIFIC DEFINITIONS

Agreement. “Agreement” shall mean the underlying agreement between County and Contractor, to which this Exhibit, the HIPAA Business Associate Agreement, is attached.

Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. section 160.103, the HIPAA Regulations, and the HITECH Act, and in reference to a party to this Exhibit shall mean the Contractor identified above. “Business Associate” shall also mean any subcontractor that creates, receives, maintains, or transmits PHI in performing a function, activity, or service delegated by Contractor.

Contractual Breach. “Contractual Breach” shall mean a violation of the contractual obligations set forth in this Exhibit.

Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. section 160.103, and in reference to the party to this Exhibit, shall mean any part of County subject to the HIPAA Regulations.

Electronic Protected Health Information. “Electronic Protected Health Information” or “Electronic PHI” means Protected Health Information that is maintained in or transmitted by electronic media.

Exhibit. “Exhibit” shall mean this HIPAA Business Associate Agreement.


HIPAA Breach. “HIPAA Breach” shall mean a breach of Protected Health Information as defined in 45 C.F.R. 164.402, and includes the unauthorized acquisition, access, use, or Disclosure of Protected Health Information which compromises the security or privacy of such information.

HIPAA Regulations. “HIPAA Regulations” shall mean the regulations promulgated under HIPAA by the U.S. Department of Health and Human Services, including those set forth at 45 C.F.R. Parts 160 and 164, Subparts A, C, and E.

HITECH Act. “HITECH Act” shall mean the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH Act”).

Privacy Rule and Privacy Regulations. “Privacy Rule” and “Privacy Regulations” shall mean the standards for privacy of individually identifiable health information set forth in
the HIPAA Regulations at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

**Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services ("DHHS") or his or her designee.


**IV. PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE**

Business Associate may only use or disclose PHI:

A. As necessary to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such use or Disclosure would not violate the Privacy Rule if done by Covered Entity;

B. As required by law; and

C. For the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

**V. PROTECTION OF PHI BY BUSINESS ASSOCIATE**

A. **Scope of Exhibit.** Business Associate acknowledges and agrees that all PHI that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording and electronic display, by Covered Entity or its operating units to Business Associate, or is created or received by Business Associate on Covered Entity’s behalf, shall be subject to this Exhibit.

B. **PHI Disclosure Limits.** Business Associate agrees to not use or further disclose PHI other than as permitted or required by the HIPAA Regulations, this Exhibit, or as required by law. Business Associate may not use or disclose PHI in a manner that would violate the HIPAA Regulations if done by Covered Entity.
C. **Minimum Necessary Rule.** When the HIPAA Privacy Rule requires application of the Minimum Necessary Rule, Business Associate agrees to use, disclose, or request only the Limited Data Set, or if that is inadequate, the minimum PHI necessary to accomplish the intended purpose of that use, Disclosure, or request. Business Associate agrees to make uses, Disclosures, and requests for PHI consistent with any of Covered Entity’s existing Minimum Necessary policies and procedures.

D. **HIPAA Security Rule.** Business Associate agrees to use appropriate administrative, physical and technical safeguards, and comply with the Security Rule and HIPAA Security Regulations with respect to Electronic PHI, to prevent the use or Disclosure of the PHI other than as provided for by this Exhibit.

E. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or Disclosure of PHI by Business Associate in violation of the requirements of this Exhibit. Mitigation includes, but is not limited to, the taking of reasonable steps to ensure that the actions or omissions of employees or agents of Business Associate do not cause Business Associate to commit a Contractual Breach.

F. **Notification of Breach.** During the term of the Agreement, Business Associate shall notify Covered Entity in writing within twenty-four (24) hours of any suspected or actual breach of security, intrusion, HIPAA Breach, and/or any actual or suspected use or Disclosure of data in violation of any applicable federal or state laws or regulations. This duty includes the reporting of any Security Incident, of which it becomes aware, affecting the Electronic PHI. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized use or Disclosure required by applicable federal and/or state laws and regulations. Business Associate shall investigate such breach of security, intrusion, and/or HIPAA Breach, and provide a written report of the investigation to Covered Entity’s HIPAA Privacy Officer or other designee that is in compliance with 45 C.F.R. section 164.410 and that includes the identification of each individual whose PHI has been breached. The report shall be delivered within fifteen (15) working days of the discovery of the breach or unauthorized use or Disclosure. Business Associate shall be responsible for any obligations under the HIPAA Regulations to notify individuals of such breach, unless Covered Entity agrees otherwise.

G. **Agents and Subcontractors.** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions, conditions, and requirements that apply through this Exhibit to Business Associate with respect to such information. Business Associate shall obtain written contracts agreeing to such terms from all agents and subcontractors. Any subcontractor who contracts for another company’s services with regards to the PHI shall likewise obtain written contracts agreeing to such terms. Neither Business Associate nor any of its subcontractors may subcontract with respect to this Exhibit without the advanced written consent of Covered Entity.
H. **Review of Records.** Business Associate agrees to make internal practices, books, and records relating to the use and Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the HIPAA Regulations. Business Associate agrees to make copies of its HIPAA training records and HIPAA business associate agreements with agents and subcontractors available to Covered Entity at the request of Covered Entity.

I. **Performing Covered Entity’s HIPAA Obligations.** To the extent Business Associate is required to carry out one or more of Covered Entity’s obligations under the HIPAA Regulations, Business Associate must comply with the requirements of the HIPAA Regulations that apply to Covered Entity in the performance of such obligations.

J. **Restricted Use of PHI for Marketing Purposes.** Business Associate shall not use or disclose PHI for fundraising or Marketing purposes unless Business Associate obtains an Individual’s authorization. Business Associate agrees to comply with all rules governing Marketing communications as set forth in HIPAA Regulations and the HITECH Act, including, but not limited to, 45 C.F.R. section 164.508 and 42 U.S.C. section 17936.

K. **Restricted Sale of PHI.** Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement.

L. **De-Identification of PHI.** Unless otherwise agreed to in writing by both parties, Business Associate and its agents shall not have the right to de-identify the PHI. Any such de-identification shall be in compliance with 45 C.F.R. sections 164.502(d) and 164.514(a) and (b).

M. **Material Contractual Breach.** Business Associate understands and agrees that, in accordance with the HITECH Act and the HIPAA Regulations, it will be held to the same standards as Covered Entity to rectify a pattern of activity or practice that constitutes a material Contractual Breach or violation of the HIPAA Regulations. Business Associate further understands and agrees that: (i) it will also be subject to the same penalties as a Covered Entity for any violation of the HIPAA Regulations, and (ii) it will be subject to periodic audits by the Secretary.
VI. INDIVIDUAL CONTROL OVER PHI

A. Individual Access to PHI. Business Associate agrees to make available PHI in a Designated Record Set to an Individual or Individual’s designee, as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. section 164.524. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.

B. Accounting of Disclosures. Business Associate agrees to maintain and make available the information required to provide an accounting of Disclosures to an Individual as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. section 164.528. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.

C. Amendment to PHI. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. section 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. section 164.526. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.

VII. TERMINATION

A. Termination for Cause. A Contractual Breach by Business Associate of any provision of this Exhibit, as determined by Covered Entity in its sole discretion, shall constitute a material Contractual Breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding. Contracts between Business Associates and subcontractors are subject to the same requirement for Termination for Cause.

B. Termination due to Criminal Proceedings or Statutory Violations. Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which Business Associate has been joined.

C. Return or Destruction of PHI. In the event of termination for any reason, or upon the expiration of the Agreement, Business Associate shall return or, if agreed upon by Covered Entity, destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of
subcontractors or agents of Business Associate.

If Business Associate determines that returning or destroying the PHI is infeasible under this section, Business Associate shall notify Covered Entity of the conditions making return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Exhibit to such PHI and limit further uses and Disclosures to those purposes that make the return or destruction of the information infeasible.

VIII. MISCELLANEOUS

A. Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Exhibit, HIPAA, the HIPAA Regulations, or the HITECH Act will be adequate or satisfactory for Business Associate’s own purposes or that any information in Business Associate’s possession or control, or transmitted or received by Business Associate is or will be secure from unauthorized use or Disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

B. Regulatory References. A reference in this Exhibit to a section in HIPAA, the HIPAA Regulations, or the HITECH Act means the section as in effect or as amended, and for which compliance is required.

C. Amendments. The parties agree to take such action as is necessary to amend this Exhibit from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the HIPAA Regulations, and the HITECH Act.

D. Survival. The respective rights and obligations of Business Associate with respect to PHI in the event of termination, cancellation or expiration of this Exhibit shall survive said termination, cancellation or expiration, and shall continue to bind Business Associate, its agents, employees, contractors and successors.

E. No Third Party Beneficiaries. Except as expressly provided herein or expressly stated in the HIPAA Regulations, the parties to this Exhibit do not intend to create any rights in any third parties.

F. Governing Law. The provisions of this Exhibit are intended to establish the minimum requirements regarding Business Associate’s use and Disclosure of PHI under HIPAA, the HIPAA Regulations and the HITECH Act. The use and Disclosure of individually identified health information is also covered by applicable California law, including but not limited to the Confidentiality of Medical Information Act (California Civil Code section 56 et seq.). To the extent that California law is more stringent with respect to the protection of such information, applicable California law shall govern Business Associate’s use and
Disclosure of confidential information related to the performance of this Exhibit.

G. Interpretation. Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA, the HIPAA Regulations, the HITECH Act, and in favor of the protection of PHI.

This EXHIBIT, the HIPAA Business Associate Agreement is hereby executed and agreed to by CONTRACTOR:

Name: Alameda Health System

By (Signature): [Signature]

Print Name: Richard Gianello

Title: Chief Financial Officer