

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND AGREEYA SOLUTIONS

This Agreement is entered into this 1st day of January, 2021, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and AgreeYa Solutions, hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing contingency staffing when temporary staff augmentation is required and critical to the Agency operations until staff can be hired under County recruitment process.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A - Services
- Exhibit B - Payments and Rates
- Exhibit C - Quality Assurance
- Exhibit D - Work Order Form
- Exhibit E - Consultant Information Form
- Exhibit F – County of San Mateo Board of Supervisor’s Resolution No. _____
- Attachment H - HIPAA Business Associate Requirements
- Attachment I - § 504 Compliance
- Attachment IP - Intellectual Property

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable.

Contractor acknowledges and agrees by signing this Agreement that County, through its Human Services Agency (HSA), has agreed to pay all contractors that provide IT contingency staffing services to HSA authorized collectively by single Board of Supervisors Resolution No. _____, a copy of which is attached hereto as Exhibit F and incorporated by reference herein, an aggregate amount that shall not

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exceed ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000), and that the funds available to pay each individual contractor are dependent upon the specific staffing services requested by County and the ability of each IT contingency staffing contractor to fulfill such staffing needs and the individual negotiated rates that apply. Each contractor is only entitled to payment for actual costs incurred based on the rates shown in Exhibit B of its individual Agreement for staffing services that have been fulfilled at request of County through its HSA.

In the event that County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from January 01, 2021, through December 31, 2023.

5. Termination

This Agreement may be terminated by Contractor or by County at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. **Hold Harmless**

a. **General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. **Intellectual Property Indemnification**

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably

withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000
- (c) Cyber Liability...
 - i. Privacy & Network Security \$5,000,000
 - ii. Technology Errors & Omissions \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred

thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Alberto Reynoso, IT Analyst
Address: 1 Davis Dr, Belmont, CA 94002
Telephone: (650) 802-7998
Email: AReynoso@smcgov.org

In the case of Contractor, to:

Name/Title: Farasat Chaudary, Account Manager
Address: 605 Coolidge Drive Suite #200, Folsom, CA 95630
Telephone: (925) 425-5558
Email: Farasat.Chaudary@agreeya.com

18. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.


19. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: AGREEYA SOLUTIONS

<small>DocuSigned by:</small>  <small>29885020A15E434...</small>	11/10/2020 5:22 PM PST	Sandeep Sharma
Contractor Signature	Date	Contractor Name (please print)

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board

Exhibit A - Services

In consideration of payments set forth in Exhibit B, Contractor shall provide services as shown below.

A. Services to be provided, the Contractor will:

- 1) Provide temporary contingency staffing professionals on an as needed basis to fulfill the County's short-term Information Technology staffing needs. Contractor's contingent staff will only be authorized to perform work within the scope of the assignment provided by County. The positions for which contingent staffing may be requested:
 - Full Stack Application Developer
 - Software Engineer
 - IT Help Desk Technician
 - Application Support Analyst
 - Project Manager
 - Reporting Data Analyst

- 2) Provide and maintain a single point of contact (POC) to manage the services in this Agreement. The POC will manage the requests for staffing and any issues identified by County (personnel or other). Contractor will notify County in writing within 1 business day if the POC information below changes.

Farasat Chaudary
Account Manager
Phone: (925) 425-5558
Cell: (909) 973-5336
Email: farasat.chaudary@agreeya.com

- 3) Contractor will only accept requests for staffing from the following County contact:

Tammy Chan
Human Services Manager
Phone: (650) 802-5166
Email: tkchan@smcgov.org

- 4) Respond to County's requests for staffing within 72 hours (as shown in paragraph C. below).

- 5) Provide weekly time tracking and employment reporting for contingent staff or at a timeframe as requested by County.

- 6) Ensure contingent staff understand the work to be completed from the plan provided by County, which includes the project overview, plan and milestones/goals.

- 7) Respond within 4 hours for any County notification/request to replace contingent staff. Contractor will work with County to identify a plan, to include a timeline, for resolving any contingent staff personnel issues identified by County.

- 8) Protect County from co-employment claims by keeping all contingent staff data and records separate from County systems and records.
- 9) Conduct background and reference checks of staff that are referred (prior to the referral) to the County.
- 10) Provide staff that are available to work regularly onsite and specific hours worked will vary depending on each assignment, but the typical hours are Monday through Friday, 8AM to 5PM. There may be requirements for evening, weekend, and overtime work. Weekend work shall be defined as Saturday and Sunday. Overtime shall be defined as hours worked in excess of 40 hours per week. Overtime will be paid by Contractor as required by state or federal laws and will be billed to County at one and one-half (1 ½) times the normal billing rates. Lunch periods will be 30 or 60 minutes, the length and time will be determined by County. No payments will be made for lunch period. Contractor will submit contingent staff time sheet to County for review/approval on a weekly basis.
- 11) Ensure the candidate is oriented and trained to work in County environment. This orientation will cover at a minimum the working hours, location, County contact number, parking information, appropriate attire, and any other County requirements or obligations.
- 12) Be responsible for all terms and conditions of employment for contingent staffing, including but not limited to hiring, firing, and discipline. The contingent staff are employees of Contractor. Contractor shall be responsible for complying with all applicable federal, state, and local laws. Contractor shall remain responsible for all compensation due to the contingent staff. Contractor will abide by all applicable provisions of such laws, including, but not limited to, the payment of overtime, required under the Fair Labor Standards Act for any contingent staff assigned to work at County. In addition, contingent staff assigned to County must be employees of the Contractor. Contractor will be responsible for all payroll processing, timekeeping, FICA, W-4 Forms, Workers' Compensation, Liability Insurance, benefits and tax withholding, federal and State, and must meet all other employer Federal and State requirements.
- 13) Ensure contingent staff returning any/all County issued identification badges, or County issued equipment prior to or at the end of the assignment. Contractor is responsible for returning and shall pay for any badge replacement due to loss or failure to return badges.
- 14) Provide specialized knowledge testing as requested by County.
- 15) Monitor the quality of services and performance of contingency staff and provide regular performance reports to County.

B. The County will:

- 1) Have the right to interview candidates referred by Contractor and may request as many candidates and/or resumes as necessary. County shall have the option to conduct reference inquiries of previous employers or verify such information that County deems appropriate.
- 2) Provide contingent staff with safe working conditions and staff will not be authorized to operate machinery or equipment outside of typical office machines (i.e., computers, servers, copiers, printers, paper shredders, etc.).
- 3) Have the option to reduce the length of the assignment at any time. In the event County decides to reduce or terminate an assignment, County will provide as much notice as is reasonably

possible. The contingent staff supplied by contractor should be available for the entire length of the assignment/project. If an individual is unable to complete an assignment, a one-week notice is required.

- 4) Have the option to subject the selected candidate to a background check to be conducted by County. A background check may consist of an investigation to determine evidence of criminal history, verification of education, employment, professional licenses, certifications or other credentials required by the job title. If County decides, based on County's own background checks that the proposed selected candidate is unsuitable, Contractor will be so notified, and the candidate will not be placed with County. There shall be no cost to County in the event of a rejection of a proposed candidate pursuant to this paragraph or for any other reason. Candidates will not be unreasonably rejected.
- 5) Notify Contractor immediately if there are any personnel or service issues. Any contingent staff that County deems as performing unsatisfactorily shall be replaced at County's discretion. County shall not be charged if, within four hours of work start-up, the contingent staff is requested to be replaced. In the event Contractor furnishes unqualified temporary contingent staff three (3) or more times in a contract period, the agreement at the discretion of County may be terminated for default. In addition, if the selected contingency staff fails, or is unable, to perform the work in accordance to the project and County requirements, within one week of an engagement, Contractor will not bill County for its staff's time.
- 6) Reserve the right to request the removal of any of Contractor's staff immediately from any of the buildings at any time for reasonable cause. Such requests will be made to Contractor.
- 7) Have the option to solicit price quotations from Contractor and/or add the positions to the contract if during the period of the contract additional contingency staffing services not listed in the Contract are required.
- 8) Have the option to modify or add related services to meet its project goals as agreed upon by both parties in writing.

C. Contingent Staffing Fulfillment Process

Contractor and County will use the following steps to fulfill short term IT staffing requests:

- 1) County will submit a request using the Contingent Staffing Request Form (CSRf) as shown in Exhibit D to Contractor. The request will include an estimated start and end date; project scope with deliverables, and any specialized skills or knowledge needed in order to complete the project.
- 2) Contractor will respond to request within 72 hours. Contractor may request additional information in order to fulfill County's request. Contractor will identify and provide to County (a minimum of 3) potential pre-screened candidate(s) for evaluation/selection. Pre-screening includes Contractor's background check and reference check as well as verification that candidate has the knowledge and skills necessary to fulfill County's need (complete the work).
- 3) County will interview qualified, screened (as shown above), candidates. County may request and conduct an additional background check to be completed by County and at County's expense.
- 4) County will notify Contractor of candidate selection or rejection. County may request additional candidates.

- 5) Upon County selection, Contractor will notify the candidate in writing providing assignment information and confirming candidate acceptance of assignment.
- 6) County will send a signed Consultant Information Form (CIF), as shown in Exhibit E, to the Contractor. Contractor will countersign and send back to County within 1 business day.
- 7) Contractor will provide orientation to selected candidate prior to the start date. This orientation will cover at a minimum the working hours, location, County contact number, parking information, appropriate attire, and any other County requirements or obligations. Contractor will work with County to identify specific orientation topics.
- 8) Contractor will contact County at the end of the first week, and monthly thereafter, to ensure that the candidate is performing to County expectations. If the candidate is not performing to County's expectations, County shall have to right to request a new candidate.

Exhibit B – Payment and Rates

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

Contractor will:

- 1) Invoice County monthly for services shown in Exhibit A based on the hourly rates in Table 1 below. Invoices are due by the 15th of the month for the previous' month's services. Due to County's year-end close, the invoice for services rendered in the month of June will be due to County no later than July 7th.
- 2) Submit invoices electronically to TKChan@smcgov.org or County designee.
- 3) Include at a minimum the following information on the invoice:
 - Contractor's address
 - Human Services Agency's address: 1 Davis Dr., Belmont, CA 94002
 - Contractor's remit payment to address
 - Agreement number
 - Bill to date
 - Project/Position title
 - Staff Name
 - Hourly rate
 - Total hours worked (itemize hours that are regular vs. overtime)
 - Provide backup documentation such as a timesheet, Exhibit D-Contingent Staff Request Form and Exhibit E-Consultant Information Form.
- 4) Acknowledges and agrees that County through its Human Services Agency (HSA) has agreed to pay all contractors who provide IT contingency staffing services to HSA authorized collectively by single Board of Supervisors Resolution (Resolution No. _____) a copy of which is attached hereto as Exhibit F and incorporated by reference herein, an aggregate amount that shall not exceed **ONE MILLION SIX HUNDRED THOUSAND DOLLARS** (\$1,600,000) and that funds available to pay each individual contractor are dependent upon the specific staffing services requested by County and the ability of each IT contingency staffing contractor to fulfill such staffing needs and the individual negotiated rates that apply. Contractor is only entitled to payment for actual costs incurred based on the rates shown below in Table 1 – Hourly Rates for staffing services that have been fulfilled at request of County through its HSA.

TABLE 1 – Hourly Rates

Position	Hourly Rate Range (actual rate is determined by level of experience)
Full Stack Application Developer	\$75.00 - \$110.00
Software Engineer	\$75.00 - \$110.00
IT Help Desk Technician	\$34.00 - \$49.00
Application Support Analyst	\$50.00 - \$70.00
Project Manager	\$85.00 - \$120.00
Reporting and Data Analysts	\$90.00 - \$115.00

County will:

- 1) Have the option to add additional IT positions and rates, to meet its project goals as long as it does not exceed the total Agreement obligation.
- 2) County shall pay Contractor upon County's receipt and approval of invoice within 30 days.

Exhibit C – Performance and Monitoring

Contractor agrees to monitor the performance of contingent staff and meet the following performance measures:

A. Contingent Staff

Contractor will monitor the performance of its assigned staff on a regular basis. Contractor will facilitate a monthly meeting with the County to discuss assigned staff's performance and progress towards project completion as outlined in the Contingent Staff Request Form (Exhibit D). Contractor will obtain County feedback to ensure contingent staff are meeting or exceeding County expectations for:

- Attendance/Punctuality
- Knowledge/Skills Requested
- Quality of Work
- Ability to Follow Instructions
- Following County policy and procedures
- Verbal Communication Skills
- Written Communication Skills
- Productivity
- Dress Attire

B. Performance Measures

Contractor agrees to meet the following performance measures:

Measure	FY 2020-21 Anticipated	FY 2021-22 Anticipated	FY 2022-23 Anticipated
Percent of requests for staffing responded to within 72 hours or sooner.	90%	95%	99%
Percent of customer service issues responded to within 4 hours.	85%	90%	95%

C. Reports

Contractor agrees to provide reports covering, but not limited to the following topics:

- a) Progress of assigned work
- b) Progress toward milestones
- c) Task order and team management
- d) Required deliverables
- e) Task order schedule and cost control
- f) Employee security compliance requirements, Contractor identification and in processing Procedures
- g) Training and certification requirements
- h) Staffing and retention issues
- i) Billing details

Exhibit D – Contingent Staff Request Form (CSRF)

Request Date:	CSRF Request #:
Requested By:	
Request Issued to (Contractor Name):	
Candidates Submission Due By:	
Estimated Project Start/End Date:	
Project/Scope of Work:	
Deliverables (if applicable):	
Candidate Qualifications, Skills or Knowledge:	
Additional Requirements:	

Exhibit E – Consultant Information Form (CIF)

By signing this form, Contractor acknowledges that their candidate(s) has been chosen to fulfill the request as specified on the Contingent Staff Request Form (CSRF). A separate form must be filled out for each candidate selected.

Branch: _____
CSRF #: _____
Agreement #: _____

Contractor Name: _____
Contingent Staff Name: _____

- Hourly Rate:** \$ _____
- Estimated Total:** \$ _____
- Amended Amount:** \$ _____
- Project Term:** **Start:** [Click here to enter a date.](#) **End:** [Click here to enter a date.](#)
- Amended Work Term:** **Start:** [Click here to enter a date.](#) **End:** [Click here to enter a date.](#)

Project Description:

By signing this Document, Contractor agrees to provide staffing for rates and terms shown above and in addition agrees to the terms and conditions set forth by the CSRF and in compliance with the Agreement between County and Contractor.

Contractor Authorized Representative

Date

County Authorized Representative

Date

Attachment H

Health Insurance Portability and Accountability Act (HIPAA) Business Associate Requirements

DEFINITIONS

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations (CFR) sections 160.103, 164.304, and 164.501. All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the parties to this agreement shall mean Contractor.
- b. **Covered Entity.** "Covered entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement shall mean County.
- c. **HIPAA Rules.** "HIPAA rules" shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR part 160 and part 164, as amended and supplemented by Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.
- d. **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- e. **Electronic Protected Health Information.** "Electronic Protected Health Information" (EPHI) means individually identifiable health information that is transmitted or maintained in electronic media; it is limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- f. **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- g. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- h. **Protected Health Information.** "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 164.503 and is limited to the information created or received by Business Associate from or on behalf of County.
- i. **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.501.
- j. **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- k. **Breach.** The acquisition, access, use, or disclosure of PHI in violation of the Privacy Rule that compromises the security or privacy of the PHI and subject to the exclusions set forth in Section 164.402. Unless an exception applies, an impermissible use or disclosure of PHI *is presumed* to be a breach, unless it can be demonstrated there is a low

probability that the PHI has been compromised based upon, at minimum, a four-part risk assessment:

1. Nature and extent of PHI included, identifiers and likelihood of re-identification;
 2. Identity of the unauthorized person or to whom impermissible disclosure was made;
 3. Whether PHI was actually viewed or only the opportunity to do so existed;
 4. The extent to which the risk has been mitigated.
- l. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- m. **Unsecured PHI.** "Unsecured PHI" is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in relevant HHS guidance.
- n. **Security Incident.** "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. "Security Incident" includes all incidents that constitute breaches of unsecured protected health information.

OBLIGATIONS AND ACTIVITES OF CONTRACTOR AS BUSINESS ASSOCIATE

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Business Associate agrees to use appropriate safeguards to comply with Subpart C of 45 CFR part 164 with respect to EPHI and PHI, and to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to make uses and disclosures requests for Protected Health Information consistent with minimum necessary policy and procedures.
- d. Business Associate may not use or disclose protected health information in a manner that would violate subpart E of 45 CFR part 164.504 if used or disclosed by Covered Entity.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- f. Business Associate agrees to report to County any use or disclosure of Protected Health Information not authorized by this Agreement.
- g. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of County, agrees to adhere to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- h. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.

- i. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- j. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of County, available to the County at the request of County or the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- l. Business Associate agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (k) of this Schedule, in order to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- m. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of County.
- n. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- o. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- p. Business Associate shall report to County any Security Incident within three (3) business days of becoming aware of such incident. Business Associate shall also facilitate breach notification(s) to the appropriate governing body (i.e. HHS, OCR, etc.) as required by law. As appropriate and after consulting with County, Business Associate shall also notify affected individuals and the media of a qualifying breach.
- q. Business Associate understands that it is directly liable under the HIPAA rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of Protected Health Information that are not authorized by this Attachment, the underlying contract as or required by law.

PERMITTED USES AND DISCLOSURES BY CONTRACTOR AS BUSINESS ASSOCIATE

Except as otherwise limited in this Schedule, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

OBLIGATIONS OF COUNTY

- a. County shall provide Business Associate with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

PERMISSIBLE REQUESTS BY COUNTY

County shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if so requested by County, unless the Business Associate will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Business Associate.

DUTIES UPON TERMINATION OF AGREEMENT

- a. Upon termination of the Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from County, or created, maintained, or received by Business Associate on behalf of County, that Business Associate still maintains in any form. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- b. In the event that Business Associate determines that returning or destroying Protected Health Information is infeasible, Business Associate shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protection Health Information.

MISCELLANEOUS

- a. **Regulatory References.** A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

- c. **Survival.** The respective rights and obligations of Business Associate under this Schedule shall survive the termination of the Agreement.
- d. **Interpretation.** Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. **Reservation of Right to Monitor Activities.** County reserves the right to monitor the security policies and procedures of Business Associate.

ATTACHMENT I**Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended**

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person: Sandeep Sharma

Name of Contractor(s): AgreeYa Solutions Inc.

Street Address or P.O. Box: 605 Coolidge Dr.

City, State, Zip Code: Folsom CA 95630

I certify that the above information is complete and correct to the best of my knowledge

Signature:

DocuSigned by:
Sandeep Sharma
29885020A15E434...

Title of Authorized Official:

SVP - Strategic Accounts

Date:

11/10/2020 | 5:22 PM PST

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

Attachment IP Intellectual Property Rights

1. The County of San Mateo ("County"), shall and does own all titles, rights and interests in all Work Products created by Contractor and its subcontractors (collectively "Vendors") for the County under this Agreement. Contractor may not sell, transfer, or permit the use of any Work Products without the express written consent of the County.
2. "Work Products" are defined as all materials, tangible or not, created in whatever medium pursuant to this Agreement, including without limitation publications, promotional or educational materials, reports, manuals, specifications, drawings and sketches, computer programs, software and databases, schematics, marks, logos, graphic designs, notes, matters and combinations thereof, and all forms of intellectual property.
3. Contractor shall not dispute or contest, directly or indirectly, the County's exclusive right and title to the Work Products nor the validity of the intellectual property embodied therein. Contractor hereby assigns, and if later required by the County, shall assign to the County all titles, rights and interests in all Work Products. Contractor shall cooperate and cause subcontractors to cooperate in perfecting County's titles, rights or interests in any Work Product, including prompt execution of documents as presented by the County.
4. To the extent any of the Work Products may be protected by U.S. Copyright laws, Parties agree that the County commissions Vendors to create the copyrightable Work Products, which are intended to be work-made-for-hire for the sole benefit of the County and the copyright of which is vested in the County.
5. In the event that the title, rights, and/or interests in any Work Products are deemed not to be "work-made-for-hire" or not owned by the County, Contractor hereby assigns and shall require all persons performing work pursuant to this Agreement, including its subcontractors, to assign to the County all titles, rights, interests, and/or copyrights in such Work Product. Should such assignment and/or transfer become necessary or if at any time the County requests cooperation of Contractor to perfect the County's titles, rights or interests in any Work Product, Contractor agrees to promptly execute and to obtain execution of any documents (including assignments) required to perfect the titles, rights, and interests of the County in the Work Products with no additional charges to the County beyond that identified in this Agreement or subsequent change orders. The County, however, shall pay all filing fees required for the assignment, transfer, recording, and/or application.
6. Contractor agrees that before commencement of any subcontract work it will incorporate this **ATTACHMENT IP** to contractually bind or otherwise oblige its subcontractors and personnel performing work under this Agreement such that the County's titles, rights, and interests in Work Products are preserved and protected as intended herein.