

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
MACIAS GINI & O'CONNELL LLP**

THIS AGREEMENT, entered into this 14th day of April, 2015, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and MACIAS GINI & O'CONNELL LLP, hereinafter called "Auditor";

W I T N E S S E T H:

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

WHEREAS, it is necessary and desirable that Auditor be retained for the purpose of post-audits, examination of various County Departments financial statements and for other specified audit work.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
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 - HIPAA Business Associate Requirements

Exhibit D - Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

2. Services to be performed by Auditor

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

3. Payments

In consideration of the services provided by Auditor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, County shall make payment to Auditor 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. In no event shall County's total fiscal obligation under this Agreement exceed ONE MILLION ONE HUNDRED TWENTY TWO THOUSAND THREE HUNDRED FORTY DOLLARS (\$1,122,340).

3.1 Extension of Audit and Provision for Compensation. Should any defalcation or other irregularity be encountered by Auditor during the performance of its work under this Agreement that will require the expenditure of time or services in addition to that described in Exhibit A, such defalcations or irregularities shall be immediately brought to the attention of the County Manager's Office for specific instructions in regard to the extension of the time provided for herein or in regard to the extension of compensation as provided herein. No additional time or services shall be expended by Auditor unless and until arrangements covering a charge for the additional work shall be agreed upon and approved by the Board of Supervisors or its designee.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from April 14, 2015, through March 31, 2018. Two one-year extensions may be exercised at the sole option of the County, potentially extending the term through March 31, 2020.

This Agreement may be terminated by Auditor, the County Manager, or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished and/or unfinished documents, prepared by Auditor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Auditor may make and retain a copy of such materials. Subject to availability of funding, Auditor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

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

6. Relationship of Parties

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

6.1 Cooperation of County Employee. Every officer and employee shall give all required assistance and information to Auditor and submit to it for examination such books and papers of their office as maybe requested. Any instance of lack of cooperation on the part of any such County officer or employee shall immediately be brought by the Auditor to the attention of the County Manager.

6.2 Interest of Auditor. The Auditor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Auditor further covenants that, in the performance of this Agreement, no persons having any such interest shall be employed to provide services pursuant to this Agreement.

7. Hold Harmless

7.1 General Hold Harmless. Auditor 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 Auditor 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 Auditor 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 Auditor'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, Auditor'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 Auditor 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.

7.2 Intellectual Property Indemnification.

Auditor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and 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 ("IP Rights") except as otherwise noted by this Agreement. Auditor 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. Auditor 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. Auditor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Auditor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Auditor, at Auditor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Auditor retains sole control of the defense of any action on any such claim and all negotiations for its

settlement or compromise (provided Auditor 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 Auditor'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, Auditor shall, at Auditor'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, Auditor 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, Auditor) in such a way as to cause the alleged infringement at issue; (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 Auditor 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.

8. Assignability and Subcontracting

Auditor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by Auditor 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.

8.1 Auditors' Personnel. Auditor agrees to have all work performed under the direct supervision of one of the partners and the assigned manager of said Auditor and warrant that all work will be carefully supervised. The personnel employed by Auditor in carrying out its duties under this Agreement shall be those specified below. Auditor will notify the County of any changes in the specified personnel. The County shall have the right to approve the assignment of personnel or request replacements. If the County believes the audit would benefit from the replacement of Auditors' assigned personnel, the County reserves the right to have any and all individuals replaced within a reasonable period of time. Auditor agrees to make comparable personnel available for all work under this Agreement.

CAFR/Single Audit/JPFA/SMMC/Other

Cynthia Pon, Engagement Partner

Katherine Lai, Technical Review Partner

Irene Chan, Engagement Manager

Scott Diem, Supervising Senior

Steven Andersen, IT Manager

9. Insurance

Auditor 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 Auditor shall use diligence to obtain such insurance and to obtain such approval. Auditor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Auditor's coverage to include the contractual liability assumed by Auditor 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.

- (1) **Workers' Compensation and Employer's Liability Insurance.** Auditor 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, Auditor certifies, as required by Section 1861 of the California Labor Code, (a) that 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) that it will comply with such provisions before commencing the performance of work under this Agreement.
- (2) **Liability Insurance.** Auditor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Auditor 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 Auditor's operations under this Agreement, whether such operations be by Auditor, any subAuditor, anyone directly or indirectly employed by either of them, or by 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 amount specified below.

Such insurance shall include:

(a) Comprehensive General Liability	\$1,000,000
(b) Motor Vehicle Liability Insurance	\$1,000,000
(c) Professional Liability.	\$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.

10. Compliance With Laws

All services to be performed by Auditor 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 Exhibit C, 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 handicap 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.

Further, Auditor certifies that Auditor and all of its Auditors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

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

11. 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.* Auditor 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. Auditor's equal employment policies shall be made available to County upon request.

- C. *Section 504 of the Rehabilitation Act of 1973.* Auditor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual 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 this Agreement. This Section applies only to Auditors who are providing services to members of the public under this Agreement.
- D. *Compliance with County's Equal Benefits Ordinance.* With respect to the provision of benefits to its employees, Auditor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits Auditors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Auditor must certify which of the following statements is/are accurate:
- ☐ Auditor complies with Chapter 2.84 by:
 - ☒ offering the same benefits to its employees with spouses and its employees with domestic partners.
 - ☐ offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Auditor's cost of providing the benefit to an employee with a spouse.
 - ☐ Auditor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
 - ☐ Auditor does not comply with Chapter 2.84, and a waiver must be sought.
- E. *Discrimination Against Individuals with Disabilities.* The Auditor shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.
- F. *History of Discrimination.* Auditor must check one of the two following options, and by executing this Agreement, Auditor certifies that the option selected is accurate:
- ☒ No finding of discrimination has been issued in the past 365 days against Auditor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
 - ☐ Finding(s) of discrimination have been issued against Auditor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Auditor shall provide

County with a written explanation of the outcome(s) or remedy for the discrimination.

- G. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Auditor 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 Auditor from bidding on 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 examine Auditor's employment records with respect to compliance with this Section and/or to set off all or any portion of the amount described in this Section against amounts due to Auditor under this Agreement or any other agreement between Auditor and County.

Auditor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Auditor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Auditor shall provide County with a copy of their response to the Complaint when filed.

12. Compliance with County Employee Jury Service Ordinance

Auditor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that an Auditor shall have and adhere to a written policy providing that its employees, to the extent they live in San Mateo County, shall receive from the Auditor, 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 Auditor or that the Auditor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Auditor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Auditor has no employees in San Mateo County, it is sufficient for Auditor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Auditor certifies that it has no 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, Auditor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code."

13. Retention of Records, Right to Monitor and Audit

(a) All working papers and reports must be retained, at the Auditor's expense, for a minimum of seven (7) years, unless the Auditor is notified in writing by the County of the need to extend the retention period. Auditor shall be subject to the examination and/or audit of County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Auditor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by County.

(c) Auditor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representatives, 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.

14. Merger Clause & Amendments

This Agreement, including the Exhibits and/or Attachments attached to this Agreement and incorporated herein 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 Attachments 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.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, 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 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.

16. 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: REYNA FARRALES, DEPUTY COUNTY MANAGER
Address: C/O COUNTY MANAGER'S OFFICE,
400 COUNTY CENTER, FIRST FLOOR
REDWOOD CITY, CALIFORNIA 94063
Telephone: (650) 363-4123
Facsimile: (650) 363-1916
Email: rfarrales@smcgov.org

In the case of Auditor, to:

Name/Title: CYNTHIA PON, ENGAGEMENT PARTNER
Address: 2121 N. CALIFORNIA BLVD, STE 750,
WALNUT CREEK, CA 94596
Telephone: (925) 274-0190
Facsimile: (925)-274-3819
Email: cpon@mgocpa.com

17. Electronic Signature

If both County and Auditor 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, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☒ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Auditor: ☐ If this box is checked by Auditor, Auditor consents to the use of electronic signatures in relation to this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO


By: _____
President, Board of Supervisors, San Mateo
County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

MACIAS GINI AND O'CONNELL, LLP



Auditor's Signature

Date: 4/2/15

Exhibit A

In consideration of the payments set forth in Exhibit B, Auditor shall provide the following services:

1. The Auditor shall, conduct an audit of the Comprehensive Annual Financial Report (CAFR) of the County in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. The audit shall conduct such tests of the accounting records and such other auditing procedures considered necessary under the circumstances in order that the Auditor may render an opinion of the financial statements of the County for the fiscal year ending June 30.

The Auditor is not required to audit the combining and individual fund financial statements and supporting schedules. However, the Auditor is to provide an "in-relation-to" report on the combining and individual fund financial statements and supporting schedules based on the auditing procedures applied during the audit of the basic financial statements. The Auditor is not required to audit the introductory section of the CAFR or the statistical section of the CAFR.

The Auditor shall also be responsible for performing certain limited procedures involving supplementary information required by the Governmental Accounting Standards Board (GASB) as mandated by generally accepted auditing standards.

The schedule for the 2015 fiscal year audit of the CAFR is provided below. A similar time schedule will be developed for audits of future fiscal years. Each of the following should be completed by the Auditor no later than the dates indicated. Should the County require additional time up to 40 days, the Auditor shall ensure that the necessary Auditor resources remain available to complete the audit as close to the scheduled dates as possible.

CAFR - Timeline of Events	
EVENT	TARGET DATE
Detailed Audit Plan - The Auditor shall provide County a list of all schedules to be prepared by the County.	May 29
Interim Work	June 15
Fieldwork	September 28
Draft Reports - The Auditor shall have drafts of the audit report and recommendations to management available for review by the Controller	October 23
Entrance Conferences, Progress Reporting and Exit Conferences. A similar time schedule will be developed for audits of future fiscal years. At a minimum, the following conferences should be held within the week of the dates indicated:	
	<u>Week of</u>
Entrance conference with Controller and County Manager	April 27
Entrance conference with all key finance department personnel and department heads of key offices or programs. The purpose of this meeting will be to discuss prior audit problems and the interim work to be performed. This meeting will also be used to establish overall liaison for the audit and to make arrangements for work space and other needs of the Auditor.	April 27
Progress conference with Controller and department heads of key offices or programs. Note: The purpose of this meeting will be to summarize the results of the preliminary review and to identify the key internal controls or other matters to be tested.	May 25
Progress conference with Controller.	May 25
Progress conference with Controller, key finance department personnel and other department heads of key offices or programs. Note: The purpose of this meeting will be to discuss the year-end work to be performed.	June 22
Entrance conference with Controller to commence year-end audit work.	August 28
Exit conference with Controller and department heads of key offices or programs. Note: The purpose of this meeting will be to summarize the results of the field work and to review significant findings.	September 30
Exit conference with Controller.	September 30
<p>Date Final CAFR is Due</p> <p>The Controller shall prepare draft financial statements, based on the available information, notes and required supplementary schedules and statistical data by September 8. The Auditor shall provide all recommendations, revisions and suggestions for improvement to the Controller by September 30.</p> <p>The Controller will incorporate all recommendations, revisions, and suggestions into the draft report as expeditiously as possible. It is expected that this process should not exceed two weeks. During that period, the Auditor should be available for any meetings that may be necessary to discuss the audit reports. Once all issues for discussion are resolved, the final signed report shall be delivered to the Controller within 5 working days. It is anticipated that this process will be completed and the final report delivered by October 30.</p> <p>The Auditor shall deliver the report electronically.</p>	

2. The Auditor shall conduct a Single Audit in accordance with OMB's Circular A-133 *Audits of States, Local Governments, and Non-Profit Organizations* for the year ending June 30, 2015 and OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* beginning with the year ending June 30, 2016. The Auditor shall, in conjunction with the audit of the County's financial statements, conduct the single audit in accordance with the standards described in the following three (3) paragraphs: and issue a separate report thereon

- a. The audits shall be the financial and compliance type described in the *Standards for Audit of Governmental Organizations, Programs, Activities and Functions* published by the Comptroller General of the United States.
- b. The Auditor's examination of the County's financial statements shall be the financial type described in the American Institute of Certified Public Accountants (AICPA) *Industry Audit Guide, Audits of State and Local Governmental Units* and the *Governmental Accounting and Financial Reporting Standards* published by GASB. The examination shall be conducted in accordance with auditing standards generally accepted in the United States of America leading to the expression of an opinion in compliance with Accountancy Regulations, Section 58, of the California State Board of Accountancy.
- c. The compliance examination shall enable the Auditor to determine whether the organization has complied with the laws and regulations that may have a material effect on each major Federal assistance program. The Auditor shall supply special reports and expressions as required by the cognizant agency and express an opinion on the County's compliance with all Federal assistance programs in accordance with *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. Audits of secondary recipients are excluded from this agreement.

The Auditor is not required to audit the schedule of expenditures of federal awards. However, the Auditor is to provide an "in-relation-to" report on that schedule based on the auditing procedures applied during the audit of the financial statements.

3. Upon completion of the audit of each fiscal year's financial statements (described in 1 and 2 above) the Auditor shall issue to the Grand Jury and Board of Supervisors of the County of San Mateo the following:

- A report on the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America.
- A report on compliance and internal control over financial reporting based on an audit of the financial statements.

- A report on compliance with requirements that could have a direct and material effect on each major program and a report on and internal control over compliance and on the Schedule of Expenditures of Federal Awards based on a single audit of federal awards.

The Schedule of Expenditures of Federal Awards and related Auditor's report, as well as the reports on compliance and internal controls are not to be included in the CAFR, but are to be issued separately. In the required reports on compliance and internal controls, the Auditor shall communicate any control deficiency that is considered a material weakness or a significant deficiency found during the audit. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency or a combination of control deficiencies such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

The reports on compliance and internal controls shall include all instances of noncompliance identified during the audits that could have a direct and material effect on the determination of financial statement amounts.

Each year the Auditor shall communicate in writing to management matters required to be communicated under the auditing standards described in this section. Such matters shall include but not be limited to control deficiencies identified during the audit that are considered significant deficiencies or material weaknesses, including matters that were communicated in previous audits and have not yet been remediated.

Each year the Auditor shall also communicate in writing to management matters related to internal control that the Auditor believes to be of potential benefit to the entity, such as recommendations for operational or administrative efficiency, or for improving internal control.

The audits (described in 1 and 2 above) should also include a review to determine if the County is complying with the uniform accounting standards and procedures as specified by the State of California Code of Regulations.

4. For each fiscal year ending June 30, the Auditor shall conduct an agreed upon procedures to examine and prepare a separate report on the County's compliance with the Investment Policy adopted by the Board of Supervisors and other relevant Government Code sections.

5. For each fiscal year ending June 30, the Auditor shall conduct an agreed-upon procedures to review the calculations of the appropriations limits of the County pursuant to the provisions of Proposition 111 (Section 1.5 of Article XIII B of the California Constitution). The review will evaluate the accuracy of the computations

and the adequacy of documentation. The Auditor shall provide a separate report thereon.

6. District Attorney – Grants (3). The Auditor shall audit the following three grants for the District Attorney's Office and issue separate reports thereon in accordance with grant requirements:

California Department of Insurance

- Automobile Insurance Fraud Grant - Sub-Org 25132
- Worker's Compensation Insurance Fraud Grant - Sub-Org 25131
- Disability and Healthcare Insurance Fraud Program - Sub-Org 25134

7. The Auditor shall audit the financial statements of the San Mateo County Joint Powers Financing Authority (JPFA) and issue a separate report thereon. These financial statements will be blended into the County's financial statements.

8. The Auditor shall perform a separate, stand-alone financial statements audit of the San Mateo Medical Center enterprise fund (inclusive of Clinics) and issue a report thereon. This audit shall be performed in accordance with auditing standards generally accepted in the United States of America and shall comply with the applicable AICPA audit guide(s).

9. The Auditor shall audit the financial statements of the San Mateo County Local Transportation Fund and issue a report thereon.

10. The Auditor shall perform an agreed-upon procedures engagement of the Assessor's Social Security Truncation program and issue a report thereon. The engagement shall satisfy the second review of the social security truncation program the County Controller is required to perform pursuant to California Government Code Section 27361(d)(4) no later than December 31, 2017.

11. Auditing standards to be followed.

The audits shall be performed in accordance with generally accepting auditing standards as set forth by AICPA, the standards for financial audits set forth in the Government Accountability Office Government Auditing Standards (2011), and the provisions of OMB's Circular A-133 (for fiscal year ending June 30, 2015) or Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (beginning with the year ending June 30, 2016).

12. Required Communication to the County

Auditor shall assure themselves that the County is informed of each of the following:

- a) The Auditor's responsibility under auditing standards generally accepted in the United States of America and OMB Circular A-133.
- b) Significant accounting policies
- c) Audit adjustments

- d) Disagreements with management
- e) Consultations with other independent accountants
- f) Major issues discussed with management prior to retention
- g) Difficulties in performing the audit
- h) The Auditor shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the County.

13. Special Considerations

The County will send its CAFR to the Government Finance Officers Association of the United States and Canada for review in its Certificate of Achievement for Excellence in Financial Reporting program. The Auditor will be required to provide special assistance, primarily in the form of a technical review and guidance, to the County to meet the requirements of that program. Should the Award not be received for any fiscal year covered by the contract, it shall be considered sufficient grounds for the County to terminate the contract.

14. Working Paper Retention and Access to Working Papers

All working papers and reports must be retained, at the Auditor's expense, for a minimum of seven (7) years, unless the Auditor is notified in writing by the County of the need to extend the retention period. The Auditor will be required to make working papers available, upon request, to the following parties or their designees:

- County Management
- Government Accountability Office
- Parties designated by the federal or state governments or by the County as part of an audit quality review process.
- Auditor of entities of which the County is a sub-recipient of grant funds

In addition, the Auditor shall respond to the reasonable inquiries of any successor auditor and allow such successor to review working papers relating to matters of continuing accounting significance.

15. Due Dates for reports listed in this section.

Deliverable*	Due Date
* All reports require 1 electronic copy and hard copies as indicated in "()"	
• JPFA Report (15)	September 21
• Comprehensive Annual Financial Report (CAFR) (0)	October 30
• Report on Appropriation Limit (8)	September 22
• Medical Center Enterprise Funds Audit Report (28)	September 22
• Investment Policy Report (33)	September 30
• All District Attorney's Reports (2)	November 15
• Single Audit Reports (17)	March 31
• Local Transportation Fund (9)	November 30
• Social Security Truncation (5)	November 1, 2017
• Management Letter (8)	November 30

Exhibit B

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

1. Fee Schedule for Auditor Services

The terms of this Agreement shall cover audit services relating to FY 2015, FY 2016 and FY 2017 and shall not exceed \$1,122,340.

In the event that the County exercises its options to extend the term of the agreement, the fee schedule for audit services relating to FY 2018 and FY 2019 are also provided below.

Deliverable Report	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Comprehensive Annual Financial Report	\$ 156,400	\$ 160,640	\$ 164,315	\$ 168,645	\$ 172,420
Single Audit Report (up to 8 major programs)	\$ 92,550	\$ 95,155	\$ 97,215	\$ 99,840	\$ 101,945
Investment Policy Agreed Upon Procedures Report	\$ 8,000	\$ 8,220	\$ 8,405	\$ 8,630	\$ 8,810
Appropriations Limit Agreed Upon Procedures Report	\$ 1,300	\$ 1,335	\$ 1,365	\$ 1,400	\$ 1,435
Three (3) District Attorney's Grants Audit Reports	\$ 10,250	\$ 10,525	\$ 10,770	\$ 11,055	\$ 11,295
Joint Powers Financing Authority Financial Statement Report	\$ 20,450	\$ 21,005	\$ 21,485	\$ 22,055	\$ 22,535
San Mateo Medical Center Funds Financial Statement Report	\$ 71,875	\$ 73,980	\$ 75,830	\$ 78,005	\$ 79,905
Local Transportation Fund Report	\$ 2,850	\$ 2,940	\$ 3,020	\$ 3,110	\$ 3,195
Social Security Truncation Agreed Upon Procedures Report	\$ -	\$ -	\$ 2,460	\$ -	\$ -
Grand Total	\$ 363,675	\$ 373,800	\$ 384,865	\$ 392,740	\$ 401,540

2. Travel and Out-of-Pocket Expenses

Daily travel/commute time to the County and its satellite offices located in the San Mateo County, lodging, and subsistence expenses are not billable to the County. Any out-of-pocket expenses incurred by the Auditors' personnel are the responsibility of the Auditor.

Exhibit D
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 ACTIVITIES 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.

PERMISSABLE 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 Protected 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.

Exhibit E

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: Katelynn Anderson, Human Resources Manager

Name of Contractor(s): Macias Gini & O'Connell, LLP

Street Address or P.O. Box: 2121 N. California Blvd., Suite 750

City, State, Zip Code: Walnut Creek, CA 94596

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

Signature:



Title of Authorized Official: Partner

Date:

4/7/15

*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."