

FUNDING AND SUPPORT AGREEMENT FOR THE ALAMO AREA COMMUNITY NETWORK

This **FUNDING AND SUPPORT AGREEMENT FOR THE ALAMO AREA COMMUNITY NETWORK** (this “**Agreement**”) is made and entered into by and between the City of San Antonio, a Texas Municipal Corporation (the “**City**”), and the Alamo Area Community Network, a Texas Nonprofit Corporation (the “**AACN**”). The City and the AACN are referred to herein as “**Parties**” collectively and as a “**Party**” individually.

I. RECITALS

WHEREAS, the AACN has formed an alliance of community organizations in and around San Antonio, Bexar County, and surrounding counties (the “**Network**”) to improve services for residents in our community; and

WHEREAS, community organizations participating in the Network will have access to a HIPAA-compliant, cloud-based platform (the “**AACN Platform**”) to allow for client case management, referrals, and coordination of services across organizations for online health and social services; and

WHEREAS, the City wishes to provide support to the AACN to contribute towards the success of the Network and the AACN Platform; and

WHEREAS, the City also wishes to provide funding to expand the features and functionalities of the AACN Platform to better serve the City’s Training for Job Success and SA: Ready to Work programs.

NOW THEREFORE, in consideration of the mutual promises and obligations herein and for the benefit of the citizens of the City of San Antonio, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

II. AGREEMENT

1. Term.

- 1.1** This Agreement begins on the date the last Party signs this Agreement (“**Effective Date**”) and ends on December 31, 2028 (the “**Term**”).
- 1.2** City may terminate this Agreement without cause upon thirty (30) calendar days’ written notice. Upon the effective date of termination, the AACN and its subcontractors, if any, shall cease all work being performed by the AACN pursuant to this Agreement.
- 1.3** Within forty-five (45) calendar days of the effective date termination, the AACN shall submit to the City its claims, in detail, for the monies owed by the City for services performed through the effective date of termination. Failure by the AACN to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of the City and constitute a waiver by the AACN of any and all rights or claims to collect monies that the AACN may rightfully be otherwise entitled to for services performed.

2. Performance by the AACN.

- 2.1** The AACN shall complete its buildout of the AACN Platform by no later than December 31, 2023. The AACN shall ensure the AACN Platform includes the functional, non-

functional, and technical requirements identified in the Statement of Work (“SOW”), attached and incorporated herein for all purposes as **Attachment A**. The total amount to be contributed by the City to the AACN for completion of the AACN Platform, in accordance with the SOW, is provided for in Section 3.1 of this Agreement.

- 2.2 The AACN shall perform all services and produce of all deliverables required by the SOW in a satisfactory and efficient manner as determined solely by the City.
- 2.3 The AACN understands and agrees to abide by and adhere to all applicable federal, state and local, laws, rules, and regulations in the performance of this Agreement.
- 2.4 The AACN may subcontract the performance of some or all of its duties under this Agreement. The AACN shall be responsible for the performance or nonperformance of its subcontractors as if such performance or nonperformance were that of the AACN. The AACN will require all subcontractors, as a condition to their engagement, to agree to perform their work in accordance with the applicable provisions of this Agreement.
- 2.5 The City hereby acknowledges that at the time of entering into this Agreement, the AACN is subcontracting with Salesforce Inc., a Delaware corporation with its principal place of business at Salesforce Tower, 415 Mission Street, 3rd Floor, San Francisco, California 94105 (“Salesforce”) to provide the underlying software platform on which the AACN Platform is built. If during the Term the AACN’s agreement with Salesforce or any other subcontractor expires or is otherwise terminated, the AACN will, at its sole cost, secure an alternative software provider so that the AACN Platform continues to operate without diminution or unreasonable interruption in services.

3. City’s Contribution and Subscription.

- 3.1 The City shall contribute a total amount not to exceed ONE MILLION ONE HUNDRED AND SIXTY THOUSAND NINE HUNDRED AND SIXTY-FIVE DOLLARS (\$1,160,965.00) towards the buildout of the AACN Platform and the City’s managed services that shall include a license to use the AACN Platform (“City Funding”). City Funding will be paid as follows:
 - (a) A total of \$550,300.00 by the City to the AACN for the buildout of the AACN Platform, with payment due as follows:
 - (i) \$183,433.00 within thirty (30) calendar days of the Effective Date and the City’s receipt of a correct invoice;
 - (ii) \$183,433.00 within thirty (30) calendar days of September 1, 2023 and the City’s receipt of a correct invoice; and
 - (iii) \$183,434.00 within thirty (30) calendar days of the Scheduled Event (as defined by Section 3.2 below) and the City’s receipt of a correct invoice.
 - (b) Subject to renewals in Section 3.2, a total of \$610,665.00 by the City to the AACN for the City’s managed services, with payment due as follows:
 - (i) Year one (January 1, 2024 or earlier upon mutual agreement by the Parties – December 31, 2024): \$115,000.00 within thirty (30) calendar days of January

1, 2024 and the City's receipt of a correct invoice;

- (ii) Year two (January 1, 2025 – December 31, 2025): \$115,000.00 within thirty (30) calendar days of January 1, 2025 and the City's receipt of a correct invoice;
- (iii) Year three (January 1, 2026 – December 31, 2026): \$120,750.00 within thirty (30) calendar days of January 1, 2026 and the City's receipt of a correct invoice;
- (iv) Year four (January 1, 2027 – December 31, 2027): \$126,788.00 within thirty (30) calendar days of January 1, 2027 and the City's receipt of a correct invoice; and
- (v) Year five (January 1, 2028 – December 31, 2028): \$133,127.00 within thirty (30) calendar days of January 1, 2028 and the City's receipt of a correct invoice.

3.2 Promptly following the Effective Date, the Parties shall enter into a **Managed Services Agreement** for the City's use of the AACN Platform, which shall include a license to use the AACN Platform. Such Managed Services Agreement term shall be for one year, beginning on January 1, 2024 or earlier upon mutual agreement by the Parties (the "**Scheduled Event**"), with the City's option to renew annually under the same terms and conditions for up to four additional one-year periods. Further renewals after the four additional one-year periods may be agreed upon by the Parties in writing.

3.3 No additional fees or expenses shall be charged by the AACN nor be payable by the City. The City shall not be obligated or liable under this Agreement or the Managed Services Agreement to any party, other than the AACN, for the payment of any monies or the provision of any goods or services.

3.4 The AACN shall submit each invoice to the City, in a form acceptable to the City, which the City shall pay within thirty (30) days of receipt and approval. Invoices shall be submitted to: City of San Antonio, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.

3.5 The Parties acknowledge and agree that as part of the services provided by the AACN Platform and the City's subscription, the City and the AACN may need to use, disclose, and/or make available certain information, some of which may constitute protected health information, the privacy of which is governed by the Health Insurance Portability and Accountability Act. Therefore, to comply with such regulations, the Parties shall, upon execution of this Agreement, enter into the **Business Associate Agreement** ("**BAA**"), attached hereto and incorporated herein for all purposes as **Attachment B**.

4. Intellectual Property Rights; Ownership.

4.1 The AACN (or its subcontractors as the case may be) is, and shall be, the owner and/or licensor of all right, title, and interest in and to all documents, work product, and other materials that are delivered to the City hereunder or prepared by or on behalf of the AACN in the course of performing the services identified in the SOW ("**Deliverables**").

- 4.2 The AACN hereby grants to the City, during the Term , a license to use, perform, display, execute, reproduce, distribute, transmit, modify (including to create derivative works), import, make, have made, sell, offer to sell, and otherwise exploit any Deliverables (and any pre-existing materials owned by the AACN or its subcontractors included therein) in connection with the AACN Platform. All other rights in and to Deliverables and the pre-existing materials owned by the AACN or its subcontractors are expressly reserved by the AACN (or its subcontractors as the case may be).
- 4.3 The City hereby represents that, subject to Sections 6.1 and 6.2 of this Agreement and the BAA, any documents or materials provided to the AACN under this Agreement do not violate any third-party intellectual property rights and that the City has the rights to license and/or transfer such documents or materials provided to the AACN under this Agreement for the AACN's performance of its obligations to the City under this Agreement.
- 4.4 The Parties agree that any and all data provided, created, or generated under this Agreement or the Managed Services Agreement by the City for use on the AACN Platform ("Network Participant Data") shall be owned by the City. Notwithstanding the foregoing, the City hereby grants to the AACN a perpetual and irrevocable license to use Network Participant Data for any lawful purpose in connection with the AACN Platform. All other rights in and to the Network Participant Data are hereby expressly reserved by the City.

5. Transition Services.

- 5.1 The City acknowledges that the City is presently using a platform provided by Signify Health, LLC ("Signify Platform") to provide certain services to the City. The City hereby agrees to allow the AACN and any AACN contractors to interact with Signify for the purpose of transitioning services to migrate the City from the Signify Platform to the AACN Platform, and the City shall provide all necessary consents and otherwise cooperate to enable the AACN and its contractors to complete such transitioning services.
- 5.2 The City hereby represents that the City has obtained all proper consents, as required by all applicable laws, to enable the AACN and its subcontractors to lawfully access and transfer all data under the control of the City on the Signify Platform to the AACN Platform on behalf of the City under this Agreement.

6. Confidentiality Obligations.

- 6.1 All confidential information and other data of a disclosing Party (collectively, a "**Disclosing Party's Data**") that the other Party receives, has access to, or otherwise obtains by virtue of the transactions contemplated by this Agreement and any results of processing such Disclosing Party's Data or derived in any way therefrom shall at all times remain the exclusive property of the disclosing Party, and the receiving Party shall acquire no right or interest in such Disclosing Party's Data other than the right to use in connection with this Agreement or the Managed Services Agreement. Confidential information and Disclosing Party's Data shall not include any information or data that (a) was rightfully known to the receiving Party prior to receiving the information from the disclosing Party, as demonstrated by the receiving Party's records; (b) was or becomes publicly available through no fault of the receiving Party or any third party under a continuing obligation of confidentiality; (c) is disclosed with the prior written approval of the disclosing Party; or (d) is determined by law, regulation, or by a court with competent jurisdiction to be public

information.

- 6.2** Each Party, to the extent that it receives, has access to, or otherwise obtains a Disclosing Party's Data by virtue of this Agreement or the Managed Services Agreement, agrees that it will not and will cause its directors, managers, members, officers, affiliates, associates, partners, employees, agents, contractors, subcontractors, and advisors (collectively, "Representatives") not to use or disclose such Disclosing Party's Data during or after the termination or expiration of this Agreement for any purpose other than to carry out the obligations set forth in this Agreement or the Managed Services Agreement; provided, such use and/or disclosure of such Disclosing Party's Data shall be limited on a need to know basis only to those Representatives who reasonably require such Disclosing Party's Data in order to properly perform a Party's duties as set forth in this Agreement or the Managed Services Agreement. Each Party shall treat the Disclosing Party's Data that it receives, has access to, or otherwise obtains by virtue of the transactions contemplated by this Agreement or the Managed Services Agreement with no less care than it employs for its own confidential information that it does not wish to disclose, publish, or disseminate, but in any event not less than a reasonable level of care.
- 6.3** The Parties agree that the effect of Sections 6.1 and 6.2 above shall also be included in the terms of the Managed Services Agreement.

7. Insurance.

- 7.1** No later than 30 days before the scheduled event, the AACN must provide a completed Certificate(s) of Insurance to the City's Department of Human Services. The certificate must be:
- clearly labeled with the legal name of the event in the Description of Operations block;
 - completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance); and
 - properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Department of Human Services. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.

- 7.2** If the City does not receive copies of insurance endorsement, then by executing this Agreement, the AACN certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for the Event.
- 7.3** The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.
- 7.4** The AACN shall obtain and maintain in full force and effect for the duration of this Agreement, at the AACN's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with

an A.M. Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the AACN claims to be self-insured, the AACN must provide a copy of its declaration page to the City for review of deductibles.

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers’ Compensation 2. Employers’ Liability	Statutory \$500,000/\$500,000/\$500,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors*	For Bodily Injury and Property Damage \$500,000 per occurrence; \$1,000,000 general aggregate or its equivalent in Umbrella or Excess Liability Coverage.
4. Business Automobile Liability* a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
5. Professional Liability – (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$500,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.
6. Cyber Liability	\$500,000 per claim \$500,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
7. Employer Dishonesty Liability	\$550,300
*If Applicable	

7.5 The AACN must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain insurance coverages. The AACN is responsible to make sure their subcontractors are properly insured for services they render on behalf of this Agreement.

7.6 If a loss results in litigation, then the City is entitled to, upon request and without expense to the City, receive copies of the policies, declaration page, and all endorsements. The AACN must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio
Attn: Department of Human Services
P.O. Box 839966
San Antonio, Texas 78283-3966

7.7 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, the AACN shall provide a replacement Certificate of Insurance to the City. The City shall have the option to suspend the AACN’s performance

should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

- 7.8 In addition to any other remedies the City may have upon the AACN's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, the City may order the AACN to stop work and/or withhold any payment(s) which become due to the AACN under this Agreement until the AACN demonstrates compliance with requirements.
- 7.9 Nothing contained in this Agreement shall be construed as limiting the extent to which the AACN may be held responsible for payments of damages to persons or property resulting from the AACN's or its subcontractors' performance of the work covered under this Agreement.
- 7.10 The AACN's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.
- 7.11 The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of the City shall be limited to insurance coverage provided.
- 7.12 The AACN and any subcontractors are responsible for all damage to their own equipment and/or property resulting from their own negligence.

8. Indemnity.

- 8.1 **THE AACN COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST THE PAYMENT OF ANY ROYALTIES AND ANY AND ALL OTHER COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO PERSONAL OR BODILY INJURY, DEATH, AND PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO THE AACN'S ACTIVITIES UNDER THIS AGREEMENT OR THE MANAGED SERVICES AGREEMENT, including any acts or omissions of the AACN, any agent, officer, director, representative, employee, consultant, or subcontractor of the AACN, and their respective officers, agents employees, directors, and representatives while in the exercise of the rights or performance of the duties under this Agreement or the Managed Services Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of the City, or its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT the AACN AND THE CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO**

THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

8.2 THE AACN FURTHER AGREES TO:

- (a) ASSUME THE DEFENSE OF ANY CLAIM, SUIT, OR PROCEEDING BROUGHT AGAINST THE CITY FOR INFRINGEMENT OF ANY UNITED STATES PATENT, COPYRIGHT, TRADEMARK, OR ANY OTHER INTELLECTUAL PROPERTY RIGHTS ARISING FROM THE USE AND/OR LICENSING OF THE AACN PLATFORM UNDER THIS AGREEMENT OR THE MANAGED SERVICES AGREEMENT,**
- (b) ASSUME THE EXPENSE OF SUCH DEFENSE, INCLUDING COSTS OF INVESTIGATIONS, REASONABLE ATTORNEYS' FEES, EXPERT WITNESS FEES, DAMAGES, AND ANY OTHER LITIGATION-RELATED EXPENSES, AND**
- (b) INDEMNIFY THE CITY AGAINST ANY MONETARY DAMAGES AND/OR COSTS AWARDED IN SUCH SUIT;**

Provided that:

- (a) The AACN is given sole and exclusive control of all negotiations relative to the settlement thereof, but that the AACN agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,
- (b) The AACN Platform is used by the City in the form, state, or condition as delivered by the AACN or as modified without the permission of the AACN, so long as such modification is not the source of the claim,
- (c) The liability claimed shall not have arisen out of the City's negligent act or omission, and
- (d) The City promptly provides the AACN with written notice within fifteen (15) days following the formal assertion of any claim with respect to which the City asserts that the AACN assumes responsibility under this Section.

8.3 Upon receipt of notification that a third party claims that any part of the AACN Platform or services provided by the AACN to the City pursuant to this Agreement or the Managed Services Agreement infringes upon any United States or International patent, copyright, or trademark, the AACN will immediately:

- (a) Obtain, at the AACN's sole expense, the necessary license(s) or rights that would allow the City to continue using the AACN Platform and subscription and services or any other intellectual property as the case may be, or
- (b) Alter the AACN Platform or subscription and services so that the alleged infringement is eliminated.

If the City is prevented from using the AACN Platform or any related services while the dispute is pending, AACN shall reimburse the City for any pre-approved expenses incurred by the City to implement emergency backup measures.

- 8.4** The AACN shall advise the City in writing within seventy-two (72) hours of any claim or demand against the City or the AACN known to the AACN related to or arising out of the AACN's activities under this Agreement or the Managed Services Agreement. The City shall have the right to approve defense counsel to be retained by the AACN in fulfilling its obligation hereunder to defend and indemnify the City, unless such right is expressly waived by the City in writing, and such approval shall not be unreasonably withheld. The AACN shall retain City-approved defense counsel within ten (10) business days of the City's written notice that the City is invoking its right to indemnification under this Agreement. If the AACN fails to retain defense counsel within such time period, the City shall have the right to retain defense counsel on its own behalf, and the AACN shall be liable for all reasonable costs incurred by the City in connection with the relevant claim or demand. The City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.
- 8.5** In any and all claims against the City by any employee or subcontractor of the AACN, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the AACN or any subcontractor under worker's compensation or other employee benefit acts.
- 8.6** The Parties agree that the indemnity provisions provided in Sections 8.1 – 8.5 above shall also be included in the terms of the Managed Services Agreement.

9. Limitation of Liability.

- 9.1** EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.2 BELOW, IN NO EVENT WILL THE AACN'S OR THE CITY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO THE AACN PURSUANT TO THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING THE CLAIM GIVING RISE TO THE LIABILITY.
- 9.2** The exclusions and limitations in Section 9.1 above shall not apply to:
- (a)** damages or other liabilities arising out of or relating to a Party's failure to comply with its obligations under Section 4 (Intellectual Property Rights; Ownership), Section 5 (Transition Services), or Section 6 (Confidentiality Obligations);
 - (b)** damages or other liabilities arising out of or relating to a Party's gross negligence, willful misconduct, or intentional acts;
 - (c)** damages or liabilities to the extent covered by a Party's insurance;
 - (d)** the AACN's indemnification obligations under this Agreement; or

(e) the AACN's obligations under Section 2.5 of this Agreement.

10. Non-Discrimination. The AACN understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

11. No Conflicts of Interest.

11.1 The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- A City officer or employee, his or her spouse, sibling, parent, child, or other family member within the first degree of consanguinity or affinity;
- An entity in which the officer or employee, or his or her parent, child, or spouse directly or indirectly owns (i) ten (10) percent or more of the voting stock or shares of the entity, or (ii) ten (10) percent or more of the fair market value of the entity; or
- An entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary entity.

11.2 Pursuant to the subsection above, the AACN warrants and certifies, and this Agreement is made in reliance thereon, that none of the individuals or entities listed in the above subsection are a party to this contract or sale.

12. Notice. For purposes of this Agreement, all official communications and notices between the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

If intended for the City, to:

City of San Antonio
Attn: Department of Human Services
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for the AACN, to:

The Alamo Area Community Network
Attn: Natasha Lane
112 E. Pecan St., Suite 830
San Antonio, Texas 78205

Notices of changes of address by either Party must be made in writing delivered to the other Party's last known address within five (5) business days of the change.

13. Miscellaneous.

13.1 Amendments. Any alterations, additions, or deletions to the terms hereof shall only be by amendment in writing executed by the Parties.

- 13.2 **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the Parties.
- 13.3 **Parties Bound.** This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns, except as otherwise expressly provided herein.
- 13.4 **Severability.** If any clause or provision of this Agreement is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, then and in that event it is the intention of the Parties that such invalid, illegal, or unenforceable clause or provision shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision had never been contained herein.
- 13.5 **Governing Law and Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the Parties created hereunder are performable in Bexar County, Texas, and exclusive venue shall lie in Bexar County, Texas.
- 13.6 **Assignment.** The AACN may not sell, assign, pledge, transfer, or otherwise convey this Agreement, any interest in and to same, or any claim arising thereunder, without the prior written consent of the City. Any attempt at transfer, pledge, or other assign without said written approval shall be void ab initio and shall confer no rights upon any third person.
- 13.7 **No Waiver of Rights.** No act or omission of a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to a Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby. Any waiver, change, modification, or discharge by a Party of any provision of this Agreement shall only be effective if made in writing and signed by the Party to be charged.
- 13.8 **Authority.** Each Party represents, warrants, assures and guaranties it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution, or action passed or taken, to enter into this Agreement and to perform the obligations herein required.
- 13.9 **Entire Agreement.** This Agreement, together with its attachment, constitutes the entire and final Agreement between the Parties hereto and supersedes all prior negotiations, representations, or agreements, either oral or written. Any alterations, additions, or deletions to the terms hereof shall only be by amendment in writing executed by the Parties.
- 13.10 **Force Majeure.** No Party shall be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("**Impacted Party**") reasonable control, including without limitation the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; and (f) national or regional emergency. The Impacted Party shall give notice within ten days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue.

EXECUTED and AGREED as of the dates indicated below.

CITY OF SAN ANTONIO

**THE ALAMO AREA COMMUNITY
NETWORK**

(Signature)

(Signature)

Printed Name: _____
Title: _____
Date: _____

Printed Name: _____
Title: _____
Date: _____

Approved as to Form:

Assistant City Attorney

Attachment A

Statement of Work

This Statement of Work ("SOW"), adopts and incorporates by reference the terms and conditions of the professional services agreement ("**Professional Services Agreement**"), which has an effective date of May 15, 2023, between Alamo Area Community Network, a Texas nonprofit, with offices located at 112 E. Pecan Street, San Antonio, TX 78205 ("**Service Provider**") and City of San Antonio, ("**Customer**," and together with Service Provider, the "**Parties**," and each, a "**Party**"), as it may be amended from time to time. This SOW is effective beginning on May 15, 2023 ("**Effective Date**") and will remain in effect until completion of the Services under this SOW ("**Expiration Date**"), unless earlier terminated in accordance with the Master Agreement. Transactions performed under this SOW will be conducted in accordance with and be subject to the terms and conditions of this SOW, the Professional Services Agreement. Capitalized terms used but not defined in this SOW shall have the meanings set out in the Professional Services Agreement.

1. Scope of Work. The general duties of Service Provider shall include:

Project and Program Management

Project and Program Management Deliverables	Timeframe
Manage the overall project timeline, budget, and resources for the transition and implementation of the new structure and platform	Ongoing - December 2023
Manage the supplemental outside implementation resources to ensure contractual obligations are met, financial accountability is maintained, and timelines are met	Ongoing - December 2023
Design and optimize the future state process to remove critical pain points to increase user acceptance	Ongoing - December 2023
Ensure the overall architecture, system integrity and system management, between referral network and any other case programs on the system.	Ongoing - December 2023
Manage the establishment of the operating organization, supporting roles, and governance model for the long-term success of the platform and processes	June 2023
Manage the implementation of the referral network and partner organizations that choose to transfer to the new platform	Ongoing - December 2023
Provide a Change and Communication Plan and assist client in managing internal and external project related communications	Ongoing - December 2023
Raise any potential issues with regard to change orders or issues for approval with the Customer	Ongoing - December 2023
Understand and document the partner organizations and interconnectivity in the future platform; Ensure all architectural designs and operating decisions support the integrity of the ecosystem	Ongoing - December 2023
Ensure the implementation of timely and accurate reporting	Ongoing - December 2023
Develop documentation and training materials to support the control environment.	Ongoing - December 2023

Work Schedule and Deliverables. The relevant milestones, completion dates, and terms associated with this SOW are as follows:

Discovery and Design: Start: May 2023

Deliverable	Timeline
Establish roles, responsibilities, team members and establish the project plan, and review the scope, schedule, meeting cadence, budget, and known risks	June 2023
Establish resource utilization and cost tracking mechanism	June 2023
Establish sponsor update meeting	June 2023
Establish compliant shared working space	June 2023
Ensure all subcontractors have been onboarded, reviewed the necessary documentation, and meet necessary compliance requirements	June 2023

Conduct Discovery Sessions -	June 2023
Determine and agree on shared fields, household determination, taxonomy and security requirements	June 2023
Discovery of forms, use and workflows	June 2023
Produce Requirements document for prioritization and review by client	June 2023
Develop full Configuration Plan: Documentation of configuration plan for security model, automations, data elements, Third-party app inventory	July 2023
Produce Future State process diagrams and Design Summary: Describing the design concepts and solution. Signoff required	July 2023
Entity Relationship Diagram: representing the architectural design for the object structure	July 2023
Data Assessment: Data migration process overview document which provides the standard process. Guidance provided based on provided data, schedules and scope.	July 2023
Security Configuration: 2 role, 2 permission set and 2 sharing rules Configure security and sharing for partner organizations that are also part of the AACN referral so they can continue to perform referral work while also performing case management work in the have access to the records in each	July 2023
Identify future state, streamlined process for consent forms	July 2023
Identify KPI and Reporting Requirements	July 2023
Discovery sessions and follow up work to finalize the future privacy structure and ensure it meets the needs of participants	July 2023

Discovery Assumptions:

- Utilizing the AACN Salesforce Instance
- Combined onsite discovery with other AACN clients for platform design

Build:

It is understood that this work for this phase will begin upon the completion and sign off from the client on the Design.

Deliverable	Timeline
Customizations of Account & Contact to track data about constituents not related to specific programs or fundraising. <ul style="list-style-type: none"> ● Limited to 12 hours ● Minor customizations of Party Model to track household relationships. ● Update party model to include household members. 	August 2023
Security Configuration: <ul style="list-style-type: none"> ● Object sharing default settings (private, public read/write). <ul style="list-style-type: none"> ○ One role in the hierarchy for all users ○ 1 sharing rule on a related object ○ Tweaks to feature settings, ongoing updates during the build, one review ○ No Community permissions changes. ● Configure security and sharing for City partner organizations who are also members of the AACN referral network so that they can continue to perform referral work in the AACN experience cloud while also performing case management work in the full Salesforce environment and have access to their records in each. ● 2 roles, one for CoSA and one for Partner Agencies. ● 2 permission sets and 2 sharing rules. 	August 2023
Configure Program records <ul style="list-style-type: none"> ● Program Configuration already completed within the AACN referral, this time is for additional requirements ● Configure Intakes that can be used by staff users as a single form to enter 	August 2023

<ul style="list-style-type: none"> client data and initial assessments. ● 2 Intakes: Ready for Work & Job Success. ● Track overall status of applicant while in workflow ● Configure additional approval for quality check ● Intakes customize the industry standard data pack. ● ARC <ul style="list-style-type: none"> ○ Configure Actionable Relationship Center (ARC) for Contact/Account, referrals, and case records for the Referral Network. ● Program Referral: <ul style="list-style-type: none"> ○ Configure Case object in Service Cloud 	
Configure Program Enrollment records	August 2023
Configure Benefits to track services delivered to program enrollees <ul style="list-style-type: none"> ● Up to 10 Benefits with up to 10 custom fields. 	August 2023
Configure Care Plan Templates <ul style="list-style-type: none"> ● Configure Care Plan Templates <ul style="list-style-type: none"> ○ Three templates, Training Plan, Career Plan, and Activity Plan ● Configure Care Plans 	August 2023
Configure Case Tracking for program enrollments <ul style="list-style-type: none"> ● Hopes Initiative uses the youngest child as the primary client. Other children and caregiver(s) are participants. 	August 2023
Configure ability to determine Eligibility for Job Success and Ready to Work.	August 2023
Configure job placement object to track the job(s) a client is hired for during the program.	August 2023
Configure object to track follow-ups on case management and job placement. <ul style="list-style-type: none"> ● Configure declarative automation to create placement follow-ups at specified time intervals <ul style="list-style-type: none"> ● Automate the creation of follow-ups at specified intervals after a placement. ● Does not include additional logic beyond creating records and setting their due dates. 	August 2023
Custom object to track client barriers to completing program. <ul style="list-style-type: none"> ● Limited to 20 fields 	August 2023
Configure custom object to track the Education history of the client. <ul style="list-style-type: none"> ● Up to 20 custom fields 	August 2023
Assign applicants to an intake agency using a random generator calculation. <ul style="list-style-type: none"> ● Configure queues ● Includes initial assignment of an applicant to an agency. Does not include subsequent automatic assigning. ● May utilize an Unofficial Salesforce Component. 	August 2023
Configure declarative automation and/or OmniScript for use cases that are not otherwise explicitly included in this estimate. <ul style="list-style-type: none"> ● Limited to 40 hours 	August 2023
Configure Interaction Summaries for case notes <ul style="list-style-type: none"> ● Add Interaction Summaries to case records. ● Default sharing functionality. Does not include custom workflow, automation, or omniscrypt. 	August 2023
Configure Assessments <ul style="list-style-type: none"> ● Configure up to 6 assessments. 20 custom fields per assessment. ● Additional assessments may add to scope. 	August 2023
Configure Surveys in English and Spanish for pre and post-survey, including ability to email the survey for client to complete. <ul style="list-style-type: none"> ● Salesforce Surveys are included as a product. 	August 2023

<ul style="list-style-type: none"> ● Configure up to two Surveys ● Survey data writes into standard Salesforce survey object and is visible but does not write into the client contact or case records. ● Spanish translation to be provided by client. 	
<p>Configure email templates for automated communication.</p> <ul style="list-style-type: none"> ● Up to 5 email templates included in scope for initial implementation, using standard Salesforce email lightning template functionality. ● May include: Application submitted, Interview scheduled, Documents received, Eligibility determination completed (with accompanying reason and appeal process) 	August 2023
Configure approval processes for Service Activity Plan and an additional 2 processes.	August 2023
<p>Configure validation rules to ensure correct data entry and provide useful error messages to users.</p> <ul style="list-style-type: none"> ● Up to 5 validations on each of 5 objects. ● Salesforce limit of 100 validations per object. 	August 2023
<p>Configure duplicate rules for Person Accounts and Case Records.</p> <ul style="list-style-type: none"> ● Limited to standard functionality. ● Salesforce has a limit of up to 5 rules per object. 	August 2023
<p>Add Spanish as an available language in the Translation workbench.</p> <ul style="list-style-type: none"> ● Limited to standard functionality. ● City of San Antonio will perform translations. ● Salesforce has a limit of up to 5 rules per object. 	August 2023
<p>Party Agency Community Cloud Configuration: Configure Experience Cloud for Partner Agency staff to include case management</p> <ul style="list-style-type: none"> ● Does not include self-registration ● No custom styling ● Partner licenses <p>The same automation configured for staff users with full licenses can be used within the Experience Cloud, with permission differences for clients limiting what staff can view and edit.</p>	August 2023
<p>Data Import. Setup and configuration of import data from external systems, as necessary.</p> <p>Data Migration</p> <ul style="list-style-type: none"> ● Migration of Client's data from existing data sources into the newly configured Salesforce solution. ● Signify data with all notes, comprehensive migration approach ● Client will provide an updated data extract of all source data in .csv format within 2 weeks of contract date. ● Client will fully validate test migration. Sign-off required. 	August 2023
Role Configuration	August 2023
Household Management Configuration	August 2023
Consent Management Configuration	August 2023
<p>3rd Party Application Installation and Configuration. As an output from the Discovery Phase, the following may be implemented in order to meet the current functionality in Signify.</p> <p>Tableau:</p> <ul style="list-style-type: none"> ● Configure Tableau with up to 16 hours of Tableau dashboard and reporting configuration, including a zip code heat map. <p>Mogli:</p> <ul style="list-style-type: none"> ● Basic install and set up of Mogli SMS app for one phone number. ● Up to 8 hours of Mogli configuration. <p>Conga Composure or equivalent tool</p> <ul style="list-style-type: none"> ● Configure Conga Composer document templates to support generating Disclosure documents. ● Up to 20 hours of document generation configuration. ● AACN consent form + 2 additional forms. 	September 2023

<p>DocuSign or equivalent tools:</p> <ul style="list-style-type: none"> ● Configure DocuSign's Salesforce integration app for synchronization of document signature status information. <p>FormAssembly or equivalent Form Tool:</p> <ul style="list-style-type: none"> ● Install and configure Form Assembly. Configure forms and map them in Salesforce. ● Configure 2 forms and map them to Salesforce. Each form includes up to 20 fields and maps to a maximum of 2 objects. 	
<p>Reports and Dashboards: Building initial reports and dashboards based on Configuration Plan</p> <ul style="list-style-type: none"> ● Limited to 150 hours. ● Time may be used for Salesforce reports and dashboards or Tableau dashboards. ● Includes up to 40 initial reports, of which half may be complex reports. Includes up to 10 dashboards. ● Ability to export data fields or defined subset of data fields 	September 2023
Identify the resources for Super User Training	August 2023
Complete Training Plan and Strawman for materials	August 2023

Build Assumptions:

- Creation of a calculator to deliver household income percentage against the federal poverty guidelines will be provided for all platform users.
- Work in partnership with City of San Antonio deliver a connection to GIS service to:
 - Validate applicant address
 - Record City Council District
- Person Account configuration from AACN Referral Network will meet needs.
- Interaction Summaries for case notes - default configuration will be utilized
- Surveys meet the pre/post need for City of San Antonio.
- Configuration for consent management
- Uses the same consent management as the referral network
- All referral functionality will utilize the AACN referral network.
- Role Configuration, Household Management Configuration and overarching Consent Management Configuration are part of the AACN Scope
- Shared participate profiles across the different UW programs, where applicable
- Mogli, Form Assembly and Tableau initial configuration is included in AACN Scope. Conga Composer and shared templates will be available to users with licenses when implanted for AACN. Not specific Conga scoping.

Out of Scope:

Custom Configuration

- Income and Expenses Object Configuration, declarative automation to display Income and Expenses together. There will be the ability as part of the Benefits to track expenditure associated with a client.
- Configure Household Income and Expenses object to track the client's household income for each individual household member and expenses at the household level.
- Configure the ability to track Poverty guidelines on an annual basis so they can be used to calculate client poverty level.
- Configure the ability to calculate and track the client's current poverty level.
- Configure payroll information object
 - File upload is included in job placement
- Configure declarative automation to remind staff users that a progress update is required when the following takes place: case worker assigned, referrals made, referral services completed, plan completed, enrolled in training, training completed, credential earned, placed in a job, retained in job.
 - Satisfied through Reports/Dashboards
- Assistance Application Forms
- Configure Complaints to track unexpected incidents.
- Dynamic Assessments
- Configure Funding Sources with revenue by program year.

- Configure ability to assign a funding source to a case
- Configure benefits to include a cost associated with the service.
- Automation related to funding sources
- Balance Sheet
- Vouchers
- Connect to the City of San Antonio GIS service to:
 - Validate applicant address
 - Record City Council District
 - Determine City Equity Matrix census tract data
- Configure Outcomes Management

Client Experience Cloud Configuration

Configure Experience Cloud for employers

3rd Party Application Installation and Configuration

- Configure Outlook application to display calendar events created in Salesforce.
- Configure data archiving/storage and expunging
- SF Mobile 1 App Configuration

Test:

Deliverable	Timeline
Complete user acceptance testing of new system	October 2023
Provide user acceptance testing reports	October 2023
Data migration validation	October 2023
Parallel process assessed and final cut over date determined	October 2023

Test Assumptions:

- Initial testing will be done by the technical partner
- Test scripts will be provided to the client for User Acceptance Testing (UAT)
- Training for Customer testers will be provided
- A ticketing system will be leveraged for feedback during UAT

Deployment

Deliverable	Timeline
Training sessions for super users and	October 2023
Preparation of Training documentation	October 2023
Supporting Documentation: Update of design summary document to reflect what was delivered during the Build Stage	October 2023
Add users to the platform	October 2023
Anticipated Go-Live	December 2023
Post Go-Live Hyper-care - Will be covered under the Managed Service Contract with AACN	December 2023

Deployment Assumptions:

All partners on the platform will go live at the same time

Pricing. All costs listed below are based on the scope and assumptions included in this SOW. Any cost in excess of the Total Cost provided below shall be pre-approved in writing by Customer. Customer shall not be responsible for any costs in excess of the Total Cost below and not approved in writing by Customer. Resources include Project Management Lead, Project Support and Technical Migration Specialist(s) and Technical Specialists.

PHASE	Hours	Not To Exceed Sub-Totals
DESIGN	592	\$133,250
BUILD (INCLUDES DATA MIGRATION AND TESTING)	1,331	\$299,500
ADOPT	522	\$117,550
Total	2,445	\$550,300

Timeline:

Timeline is based on the assumption that Client will review and return feedback on project deliverables in a timely manner, in keeping with project plan tasks and timelines.

Attachment B

HIPAA BUSINESS ASSOCIATE AGREEMENT

BETWEEN THE CITY OF SAN ANTONIO

AND

THE ALAMO AREA COMMUNITY NETWORK

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (this “**Agreement**”) is entered into by and between the City of San Antonio, a Texas Municipal Corporation (“**Covered Entity**”), and the Alamo Area Community Network, a Texas Nonprofit Corporation (“**Business Associate**”, or “**BA**”), referred to collectively herein as the “**Parties**.”

WHEREAS, Covered Entity and BA have entered into a Funding and Support Agreement, executed on [REDACTED], for certain mutual promises and obligations; and

WHEREAS, in accordance with such Funding and Support Agreement, Covered Entity and BA shall enter into a Managed Services Agreement (“**Service Contract**”) whereby BA provides a platform subscription and related services to the Covered Entity; and

WHEREAS, Covered Entity and BA may need to use, disclose, and/or make available certain information pursuant to the terms of the Service Contract, some of which may constitute Protected Health Information; and

WHEREAS, Covered Entity and BA intend to protect the privacy and provide for the security of Protected Health Information disclosed to each other pursuant to the Service Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“**HIPAA**”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “**HIPAA Regulations**”), Health Information Technology for Economic and Clinical Health Act (“**HITECH Act**”), and other applicable laws; and

WHEREAS, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504(e) of the Code of Federal Regulations (“**C.F.R.**”), as the same may be amended from time to time.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions. Each term defined in the preamble of this Agreement as its assigned meaning, and each of the following terms has the meaning assigned to it:

- (1) “**Breach**” shall mean an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of the Protected Health Information. An impermissible use or disclosure of Protected Health Information is presumed to be a breach unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the Protected Health Information has been compromised based on a risk assessment of at least the following factors:

- (a) the nature and extent of the Protected Health Information involved, including the types of identifiers and the likelihood of re-identification;
 - (b) the unauthorized person who used the Protected Health Information or to whom the disclosure was made;
 - (c) whether the Protected Health Information was actually acquired or viewed; and
 - (d) the extent to which the risk to the Protected Health Information has been mitigated.
- (2) “**Designated Record Set**” shall have the same meaning as the term “designated record set” in 45 C.F.R. 164.501.
- (3) “**Disclosure**” with respect to PHI, shall mean the release, transfer, provision of access to, or divulging in any other manner of PHI outside the entity holding the PHI. 45 C.F.R. 160.103.
- (4) “**Individual**” means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502(g).
- (5) “**Privacy Rule**” shall mean the regulations for Privacy of Individually Identifiable Health Information codified at 45 C.F.R. Part 164, Subpart E.
- (6) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. 160.103, limited to the information created or received by BA from or on behalf of Covered Entity. PHI includes “**Electronic Protected Health Information**” or “**EPHI**” and shall have the meaning given to such term under the HIPAA Regulations and under the HITECH Act.
- (7) “**Required by law**” means a mandate contained in law that compels an entity to make a use or disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits. 45 C.F.R 164.103.
- (8) “**Secretary**” shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.
- (9) “**Security Rules**” shall mean the Security Standards for the Protection of Electronic Protected Health Information codified at 45 C.F.R. Part 164, Subpart C.

B. BA Obligations and Activities. BA agrees that it shall:

- (1) not use or disclose the PHI other than as permitted or required by this Agreement or as required by law;
- (2) establish and maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect, consistent with the services provided under this Agreement, the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity;
- (3) mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Agreement;
- (4) report to Covered Entity any use or disclosure of PHI of which BA is aware or becomes aware that is not provided for or allowed by this Agreement as well as any security incident as defined by 45 C.F.R. 164.304 that BA becomes aware of;
- (5) ensure that a business associate agreement is in place with any of its agents or subcontractors with which BA:
 - (a) does business, and
 - (b) to whom it provides PHI received from, or created or received by BA on behalf of, Covered Entity;and ensures such agents or subcontractors:
 - (a) are aware of and agree to the same restrictions and conditions that apply through this Agreement to BA with respect to such information, and
 - (b) agree to implement reasonable and appropriate administrative, physical, and technical safeguards that render such PHI unusable, unreadable, and indecipherable to individuals unauthorized to acquire or otherwise have access to such PHI;
- (6) provide access, at the request of Covered Entity and in a reasonable time and manner as agreed by the Parties, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements of 45 C.F.R. 164.524;
- (7) make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of the Covered Entity or an Individual, and in a reasonable time and manner agreed to by the Parties;
- (8) make available to the Covered Entity or to the Secretary all internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by BA on behalf of, the Covered Entity for purposes of determining Covered Entity's compliance with the Privacy Rule;

- (9) document disclosures of PHI and information related to such disclosures as required for Covered Entity to respond to a request from an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;
- (10) provide Covered Entity or an Individual, in a reasonable time and manner as agreed to by the Parties, information collected in accordance with Section B(9) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;
- (11) immediately, and in no event later than three days from discovery, notify Covered Entity of any Breach of PHI, including EPHI, and coordinate with Covered Entity to identify, record, investigate, and report to an affected Individual and the U.S. Department of Health and Human Services, as required, any covered PHI Breach;
 - (a) Breach notification to Covered Entity must include (i) names of individuals with contact information for those who were or may have been impacted by the Breach, (ii) a brief description of the circumstances of the Breach, including the date of the Breach and date of discovery, (iii) a description of the types of unsecured PHI involved in the Breach, and (iv) a brief description of what BA has done or is doing to investigate the Breach and mitigate harm. BA will appoint a Breach liaison and provide contact information to provide information and answer questions Covered Entity may have concerning the Breach;
- (12) comply with all Security Rules;
- (13) comply with the Privacy Rule for any obligation Covered Entity delegates to BA; and
- (14) not under any circumstances, regardless of whether such action is on behalf of or permitted by the Covered Entity, (i) sell PHI in such a way as to violate Section 181.153 of the Texas Health and Safety Code, (ii) use PHI for marketing purposes in such a manner as to violate Section 181.152 of the Texas Health and Safety Code, or (iii) attempt to re-identify any information in violation of Section 181.151 of the Texas Health and Safety Code.

C. Permitted Uses and Disclosures by BA.

- (1) Except as otherwise limited in this Agreement, BA may use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity as specified in the Service Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (2) Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person

notifies BA of any instances of which it is aware in which the confidentiality of the information has been Breached.

- (3) Except as otherwise limited in this Agreement, BA may use PHI to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).
- (4) BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 164.502(j)(1).

D. Obligations of Covered Entity. Covered Entity agrees that it shall:

- (1) notify BA of any limitations in its notice of privacy practices for PHI in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI;
- (2) notify BA of any changes in, or revocation of, permission by any Individual to use or disclose PHI to the extent that such changes may affect BA's use or disclosure of PHI;
- (3) notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522 to the extent that such restrictions may affect BA's use or disclosure of PHI; and
- (4) coordinate with BA regarding any PHI Breach and make timely notification to affected Individuals not later than the 60th day after the date on which Covered Entity determines that the Breach occurred.

E. Permissible Requests by Covered Entity. Covered Entity shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that the BA may use or disclose PHI for data aggregation or management and administrative activities of the BA.

F. Term and Termination.

- (1) This Agreement becomes effective upon the date it is signed by the last Party. This Agreement shall terminate when all PHI encompassed by this Agreement is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with Section(F)(3)(b) below.
- (2) *Termination for Cause.* Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either (a) provide an opportunity for BA to cure the breach in accordance with the terms of the Service Contract or, if the BA does not cure the breach or end the violation within the time for cure specified in the Service Contract, end the violation and terminate this Agreement and the Service Contract; or (b) immediately terminate this Agreement and the Service Contract if BA has breached a material term of this Agreement and cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) *Effect of Termination.*

- (a) Except as provided below in paragraph (b) of this Section F(3), upon termination of this Agreement for any reason, BA shall return or destroy all PHI received from the Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of BA or its subcontractors or agents. BA shall not retain any copies of PHI.
- (b) In the event that BA determines that returning or destroying PHI is infeasible, BA shall provide to Covered Entity written notification of the condition that makes the return or destruction of PHI infeasible. Upon BA's conveyance of such written notification, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make its return or destruction infeasible, for so long as BA maintains such PHI.

- (4) Notwithstanding any other provision under this Agreement, the Parties agree that the Service Contract may be terminated by either Party without penalty should the other Party violate a material obligation under this Agreement.

G. Amendment to Comply with Law. The Parties agree to take written action as is necessary to amend this Agreement to comply with the Privacy Rule legal requirements for Covered Entity without the need for additional San Antonio City Council action.

H. Survival. The respective rights and obligations of the BA under Sections B, C(2), C(4), F(3), and L of this Agreement shall survive the termination of this Agreement.

I. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit Covered Entity to comply with the Privacy Rule.

J. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or amended.

K. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, BA, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

L. **INDEMNIFICATION. BA WILL INDEMNIFY, DEFEND AND HOLD COVERED ENTITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BA IN ACCORDANCE WITH THE INDEMNITY PROVISIONS IN THE SERVICE CONTRACT, WHICH ARE HEREBY INCORPORATED BY REFERENCE FOR ALL PURPOSES.**

M. Reimbursement. BA will reimburse Covered Entity for reasonable costs incurred responding to a PHI Breach by BA or any of BA's subcontractors.

- N. Waiver. No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
- O. Assignment. Neither Party may assign (whether by operation of law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of BA.
- P. Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Service Contract or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Service Contract comply with the Privacy Rule and the Security Rules. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Party. This Agreement is for the benefit of, and shall be binding upon the Parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.
- Q. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas.

EXECUTED and **AGREED** to as of the dates indicated below. This Agreement may be executed in multiple copies, each of which shall constitute an original.

CITY OF SAN ANTONIO

THE ALAMO AREA COMMUNITY NETWORK

(Signature)

(Signature)

Printed Name: _____
Title: _____

Printed Name: _____
Title: _____

Approved as to Form:

Assistant City Attorney