

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Aging & Veterans Services

BOARD AGENDA # B-8

Urgent  Routine

AGENDA DATE September 25, 2012

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of a Nine-Month Contract Renewal with Howard Training Center for the Provision of Older Americans Act (OAA) Senior Meals Programs, October 1, 2012 through June 30, 2013, and Approval to Conduct a Request For Proposal (RFP) for OAA Title III Congregate Meals and Home-Delivered Meals Programs for Fiscal Year 2013-2014

STAFF RECOMMENDATIONS:

1. Authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) to sign the agreement and any subsequent amendments for Older Americans Act (OAA) Congregate Meals and Home-Delivered Meals Programs for October 1, 2012 through June 30, 2013.
2. Accept the results of the Agreed-Upon Procedures (audit) conducted by Brown Armstrong, Certified Public Accountants, of the Howard Training Center and the Area Agency on Aging (AAA).
3. Approval to issue a Request For Proposal (RFP) for OAA Title III C-1 Congregate Meals and Title III C-2 Home-Delivered Meals Programs for Fiscal Year 2013-2014.

Continued on Page 2

FISCAL IMPACT:

Total Older Americans Act (OAA) pass-through funding available for the Senior Meals contracts for this contract period (October 1, 2012 through June 30, 2013) is \$682,650 (\$180,000 for Congregate Meals and \$502,650 for Home-Delivered Meals). The minimum required match of approximately \$80,363 will be met by the contract provider, Howard Training Center. This pass-through funding is included in the Fiscal Year 2012-2013 Final Budget approved by the Stanislaus County Board of Supervisors on September 11, 2012. There is no impact to the General Fund.

BOARD ACTION AS FOLLOWS:

No. 2012-497

On motion of Supervisor Monteith, Seconded by Supervisor Chiesa

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

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Page 2

STAFF RECOMMENDATIONS: (Continued)

4. Authorize the General Services Agency Purchasing Agent to issue a notice inviting proposals on January 7, 2013 for OAA Title III C-1 Congregate Meals and Title III C-2 Home-Delivered Meals Programs for 2013-2014, beginning July 1, 2013.
5. Authorize to accept and open Proposals on February 21, 2013 immediately after 2:30 pm, and return to the Board to recommend an award.

DISCUSSION:

The Area Agency on Aging (AAA) contracts with the California Department of Aging (CDA) to provide Older Americans Act (OAA) Programs for senior citizens in Stanislaus County through grant agreements with local non-profit service providers. The AAA is required to provide administrative guidance and oversight, monitoring, and technical assistance to contracting service providers.

The AAA is required by law to issue, at a minimum of every four years, a Request for Proposal (RFP) to select service providers for programs that will receive more than \$100,000 from the Older Americans Act. An RFP for the Senior Meals Programs was conducted in 2010. As part of the RFP process, the AAA may negotiate and renew contracts annually with the providers selected through the RFP process for three additional one-year periods. Howard Training Center was contracted to provide these services for Fiscal Year 2011-2012.

Earlier this year, an increase in the number of meals provided to seniors in the Home-Delivered Program and at the Congregate Meal Sites resulted in Howard Training Center (HTC) spending all available Federal and State funding needed to provide these services by mid-April. This lack of oversight in monitoring meal service levels resulted in a severe reduction in meals served to seniors for May and June, 2012. Congregate Meals Sites reduced the number of meals served from an average of 5,500 per month to 5,420 in May and 3,985 in June. Home Delivered meals were reduced from an average of 14,000 a month to 7,432 in May and 3,774 in June. Due to approximately \$145,000 in donations received from the community, the program was able to continue to operate through the end of the 2011-2012 Fiscal Year at this reduced level and avoid even more drastic service reductions.

As a result of these issues, staff took the following actions:

- Entered into a three-month contract extension with HTC from July 1, 2012 through September 30, 2012 in order to evaluate audit findings and develop process improvements to ensure this program will continue to serve meals through the end of the year and provide stability for the seniors that depend on this program.
- Entered into a contract with Brown Armstrong, Certified Public Accountants, the County's outside Auditors, to conduct an independent audit, an Agreed-Upon Procedures, to review

the internal fiscal controls of HTC as well as the contract monitoring process of the AAA. A summary of the results of the audit is as follows: (A copy of the full report is attached.)

- The results of this audit revealed that both the HTC and AAA have adequate budgetary and monitoring controls in place. However, the HTC was recommended to "...improve its fiscal analysis and monitoring to provide better and closer control over its cash flows and financial resources", and to "...improve its communications with the County of Stanislaus Department of Aging and Veterans Services so that the Center can utilize the County of Stanislaus Department of Aging and Veterans Services' resources to assist them in monitoring the Center's fiscal health and flows of meals served for the Title III C-1 Congregate Meals and the Title III C-2 Home-Delivered Meals programs." There were no significant findings related to the internal controls of the HTC.
- In terms of the AAA's monitoring process of its subrecipients / providers as it relates to contract / grant compliance, the audit revealed that the AAA is in compliance. The audit recommended that the AAA "...control the meal delivery amount in the contract so that monthly reimbursements for the Center will be evened out each month."

The previous RFP allowed for annual contract renewals through Fiscal Year 2013-2014. AAA is required by law to issue, at a minimum of every four years, an RFP to select service providers for programs that will receive more than \$100,000 from the Older Americans Act. The last RFP was conducted in 2010. Staff is requesting to conduct an RFP in January 2013 to negotiate a new contract for the Senior Meals Programs for Fiscal Year 2013-14 in order to add new provisions to ensure the program operates in the most efficient and accountable manner. The Tentative RFP Time Line would be as follows:

#### SCHEDULE OF EVENTS

1	County Issues Request for Proposal (RFP)	January 7, 2013
2	Pre-Conference	January 22, 2013
3	Assistance to Proposers with a Disability Deadline	February 14, 2012
4	Question Deadline	February 14, 2012
5	Submission Deadline - <b>2:30 p.m.</b>	February 21, 2013
6	Mail Notice of Intent to Award {Tentative}	March 21, 2013
7	Appeals Deadline	March 28, 2013
8	Contract Negotiations	March 29 - April 29, 2013
9	Commission on Aging Authorizes Contract	May 13, 2013
10	Board of Supervisors Authorizes Contract	June 4, 2013
11	Begin Contract Services	July 1, 2013

As a result of the decision to issue the RFP, staff is recommending that the existing contract with HTC be renewed for October 1, 2012 through June 30, 2013. This nine-month contract renewal contains new provisions to ensure the provider fulfills its contractual obligation for the entire

contract period, including limited reimbursement for monthly meals to ensure HTC stays within the budgeted pass-through funding provided by AAA.

In summary, the Department has instituted several measures to ensure the stability of the program. These measures include additional internal controls as well as an increased level of funding and program oversight with HTC.

### Congregate Meals

Total Federal / State pass-through funding available for Congregate Meals for the nine-month contract period is \$180,000. The corresponding minimum required match of \$21,185 will be met by HTC and will be used to offset part of the cost of providing meals. Based on an average of 21 serving days per month, the AAA estimates that the average number of monthly meals served for the Congregate Meals Program during this contract period shall not exceed 4,000 meals per month with a per meal reimbursement rate of \$5.00. This will allow the program to remain within the available funding amount of \$180,000 for this nine-month period. HTC will be reimbursed monthly for an amount not to exceed \$20,000 for all meals certified to meet program dietary requirements. Congregate meals shall continue to be served at the existing 14 Sites at least three times per week. This includes 6 locations in Modesto, and one site in Hughson, Oakdale, Patterson, Waterford, Newman, Turlock, Grayson, and Riverbank.

### Home-Delivered Meals

Total Federal / State pass-through funding available for Home-Delivered Meals for the nine-month contract period is \$502,650. The corresponding minimum required match of \$59,158 will be met by HTC and will be used to offset part of the cost of providing meals. Based on the Priority System the AAA developed (and approved by CDA), the AAA is estimating that this available funding will serve Priority I and II seniors, approximately 500 seniors a month.

#### Priority 1 Seniors:

- 80+ years of age
- Lives alone or with spouse who is also homebound
- Both unable to drive

#### Priority 2 Seniors:

- 60-70 years of age, and homebound
- Lives alone or with a spouse who is also homebound
- Frail - cannot perform one or more Activity of Daily Living (ADL) due to cognitive or physical deficiency

#### Priority 3 Seniors:

- 60+ years of age
- Lives with others who are not homebound or has a caretaker during the day
- Or 60-79 years of age, lives alone but with no ADL deficiencies

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Page 5

Therefore, the average number of monthly meals served for the Home-Delivered Meals Program during this contract period shall not exceed 12,411 meals per month with a per meal reimbursement rate of \$4.50. This will allow the program to remain within the available funding amount of \$502,650 for this nine-month period. HTC will be reimbursed monthly for an amount not to exceed \$55,850 for all meals certified to meet program dietary requirements. Home-Delivered meals should be delivered, at a minimum, twice a week to homebound seniors.

**Average Meals Provided:**

Month	March 2012	April 2012	May 2012	June 2012	July 2012	August 2012
Congregate	5,550	5,550	5,420	3,985	3,594	3,816
Home-Delivered	14,000	14,000	7,432	3,774	11,543	11,496

Every Quarter, meals served will be monitored and any savings resulting from a fluctuation in the number of meals served at the 14 Congregate Meal Sites will be utilized to serve additional meals to Priority III seniors.

In the past, HTC has been able to provide, on average, approximately \$200,000 in funding over the required 10% cash match. This additional funding comes from grants and donations HTC has received from the public and has enabled more meals to be served to homebound seniors beyond the contracted amount. This funding resulted in homebound seniors receiving 243 additional meals in July and 196 in August over the contract level.

AAA strongly encourages HTC to continue seeking additional funding from outside sources. AAA will not only support HTC’s efforts, but will also provide access to the Department’s contracted grantwriter to assist with researching and writing potential grants.

Another potential source for revenue is through Program Income. The majority of Program Income is generated from the voluntary contributions received from participating seniors for the meals they receive. According to Federal regulations, meals should be free to the senior; however, seniors should be given an opportunity to donate towards the cost of the program. In Stanislaus County, the suggested donation for senior meals has been \$2.00. For the last few years, the reported donation rate has been extremely low, on average .75 cents for Congregate meals, and .16 cents for Home-Delivered meals. This is likely an indication of the challenging economic climate.

**Participant Donations Received:**

- Fiscal Year 2009-2010 - \$92,014
- Fiscal Year 2010-2011 - \$68,375
- Fiscal Year 2011-2012 - \$71,390
- Fiscal Year 2012-2013 - \$90,180 \*estimate based on the first two months of Fiscal Year

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Page 6

For the contract period of October 1, 2012 through June 30, 2013, the suggested donation is \$3.00 per meal. It is important to note that seniors will still be able to receive the meals at no cost, and this will be a suggested donation amount.

The AAA will monitor HTC's financial statements on a Quarterly basis to ensure this money is being collected and reported. As is the case with cash overmatch, all of the money that HTC receives from donations will go back into the Senior Meals Programs to serve additional meals to seniors who are on a waiting list.

**POLICY ISSUES:**

Approval of this item will enable the Area Agency on Aging to continue to provide services to seniors in Stanislaus County, consistent with the Board's priority of A Healthy Community.

**STAFFING IMPACT:**

There is no additional staffing impact associated with this request as existing staff will administer the contracts.

**CONTACT PERSON:**

Margie Palomino, Director. Telephone: (209) 525-4601

**COUNTY OF STANISLAUS  
STANDARD AGREEMENT**

**“Congregate (C-1) Meal Program”**

1. This Agreement is entered into between the County of Stanislaus and the following named Contractor  
*(If other than an individual, state whether a corporation, partnership, etc.):*  
ARC of Stanislaus County, DBA Howard Training Center, a California corporation
2. The term of this Agreement is:  
October 1, 2012 to June 30, 2013, subject to early termination per Article XII, A of Exhibit D.
3. The maximum amount of payment based on XX lump sum, or \_\_\_ time and materials is:  
Not to exceed \$ 180,000.00. Payable monthly
4. The parties agree to comply with the terms and conditions of the following exhibits which, by this reference, are made a part of the Agreement:
  - (a) Exhibit A -- Standard Agreement for Independent Contractor Services
  - (b) Exhibit B -- Scope of Work
  - (c) Exhibit C -- Budget Detail, Payment Provisions, and Closeout
  - (d) Exhibit D -- Special Terms and Conditions
  - (e) Exhibit E -- Additional Provisions
  - (f) Other (e.g. Contractor's Proposal) N/A

IN WITNESS WHEREOF, the parties have executed this Agreement on October 1, 2012  
*(Date)*

**CONTRACTOR**

Contractor's Name

By *(Authorized Signature)*

Printed Name and Title of Person Signing

Mailing Address

**COUNTY OF STANISLAUS**

Department Name

Aging and Veterans Services

By *(Authorized Signature)*

Printed Name and Title of Person Signing

Margie Palomino, Director

Mailing Address

121 Downey Avenue, Suite 102  
Modesto, California 95354

Approved for Content:

Margie Palomino, Director

Approved for Form:

  
Deirdre McGrath, Deputy County Counsel

**EXHIBIT "A"  
AGREEMENT  
FOR  
INDEPENDENT CONTRACTOR SERVICES**

This Agreement For Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and ARC of Stanislaus County DBA Howard Training Center, a California corporation ("Contractor") on October 1, 2012.

**Recitals**

WHEREAS, the County has a need for services involving a Congregate Meals Program, and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

**Terms and Conditions**

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit B**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in



Exhibit D. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

## 2. Consideration

2.1 County shall pay Contractor as set forth in Exhibit B.

2.2 Except as expressly provided in Exhibit B of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

## 3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit D.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days

of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 90 days prior written notice to the Contractor or as specified in Exhibit D. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

#### 4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

#### 5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit D, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit B to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

#### 6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits

covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

## 7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of

use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

## 8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an

agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

## 9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement, or for the necessary period described in Exhibit D. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

## 10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

## 11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L.

88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus  
Department of Aging and Veterans Services  
Attention: Margie Palomino, Director  
121 Downey Avenue, Suite 102  
Modesto, California 95354

To Contractor: ARC-Howard Training Center  
Claudia K. Miller, Exec. Director  
1424 Stonum Rd  
Modesto, CA 95351

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance

shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement and its incorporated Exhibits supersede any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.



ARTICLE I. DEFINITIONS

A. **DEFINITIONS SPECIFIC TO TITLE III AND TITLE VII PROGRAMS**

1. **Program Requirements** means Title III program requirements found in the Older Americans Act (OAA 42 USC Section 3001-3058), Code of Federal Regulations (45 CFR XIII, 1321); Title 22, California Code of Regulations (CCR), Section 7000 et seq., and Department Program Memoranda.
2. **Title III B (Supportive Services)** means a variety of services including, but not limited to: homemaker, adult day care/adult day health, case management, assisted transportation, legal assistance, information and assistance, outreach, and long-term care ombudsman advocacy, as defined in the National Aging Programs Information Systems (NAPIS) categories and National Ombudsman Reporting System (NORS).
3. **Priority Services** means those services associated with access to services (transportation, outreach, information and assistance, and case management); in-home services including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and legal assistance.
4. **Title III C-1 (Congregate Nutrition Services)** means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA) and comply with the current Dietary Guidelines for Americans.
5. **Title III C-2 (Home-Delivered Nutrition Services)** means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA) and comply with the current Dietary Guidelines for Americans.
6. **Nutrition Services Incentive Program (NSIP)** means the program whose purpose is to provide incentives to encourage and reward effective performance by AAAs in the efficient delivery of nutritious meals to older individuals. The program consists of a cash allotment based on the ratio of the number of meals served by each PSA compared to the total number of meals served in the State in the preceding year.
7. **Title III D (Disease Prevention and Health Promotion Services)** means a variety of activities to maintain or improve the physical, mental, and

ARTICLE I. DEFINITIONS (Continued)

nutritional health of older persons, to include the following specific activities: disease prevention, health promotion education, nutrition education, nutrition counseling, nutrition risk screening services, medication management, home security equipment, family support, community education/advocacy, information, outreach, physical fitness, therapy, and comprehensive assessment.

“Medication Management” means medication screening and education to prevent incorrect medication and adverse drug reactions and is a required service with a separate funding allocation.

8. **Program Income** means revenue generated by the Contractor from contract-supported activities. Program income is:
  - a. Voluntary contributions received from a participant or responsible party as a result of services.
  - b. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
  - c. Royalties received on patents and copyrights from contract-supported activities.
  - d. Proceeds from sale of items fabricated under a contract agreement.
9. **One-Time-Only** means federal funds reported as unspent in the Financial Closeout Report, recovered through the Audit Resolution process, and/or made available from other sources.
10. **Indirect Costs** means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.
11. **Eligible Service Population** for Title III means any person 60 years of age or older, or the spouse of that person, is eligible receive services under this Agreement. Although the program is especially designed to serve persons with the greatest economic or social need with particular attention to low income minority individuals and older individuals residing in rural areas, as established by the California Department of Aging, no means test shall be used to disqualify a person from receiving services.
12. **Program Overview: Congregate Meals (C-1)**. Defined as; the procurement, preparation, transportation, and other provisions needed for meal service and nutrition education to eligible older persons at

ARTICLE I. DEFINITIONS (Continued)

designated congregate dining sites. This includes the management and administration of those sites and the meal service operations. The C-1 program offers a fresh, hot lunch meal three days a week (during weekdays, Monday through Friday, except for pre-disclosed Holidays). The days may vary according to the various congregate sites' schedules, but a hot meal is available somewhere in the County on Monday through Friday at one or more congregate sites. The 14 Congregate Sites are located throughout the County, including sites in Riverbank, Oakdale, Hughson, Waterford, Turlock, Patterson, Newman, Grayson, and 6 Modesto Sites (downtown and south Modesto). Contractor shall continue service at existing sites if possible. At minimum, the same current number of sites must be available in the same service areas. Menu analysis and Nutrition Educations are planned and pre-approved by a Registered Dietitian with the Area Agency on Aging.

13. **Voluntary Contributions.** Each person receiving services will be given free and voluntary opportunity to donate towards the cost of the service. The suggested donation per meal is \$3.00. The privacy of each older person with respect to the donation will be protected. All donations will be safeguarded and an accounting will be kept for all contributions received. All contributions will be used for program expenses. No person will be denied services if a donation is not made.
14. **Advertising.** Contractor shall include the phrase "Funded by the Stanislaus County Area Agency on Aging" on any flyers, posters, or printed matter advertising services funded through Title III and Title VII of the Older Americans Act.

ARTICLE II. SCOPE OF WORK

- A. The Contractor shall perform the following for the C-1 Congregate Nutrition Program:
  1. In consideration of the timely performance of the Contractor in a manner consistent with the law and this Agreement, including reporting requirements, the AAA shall pay the Contractor the total amount not to exceed One Hundred and Eighty Thousand Dollars (\$180,000) for the Congregate Meals Program (C-1) in consideration for satisfactory performance as determined by the AAA. Contractor agrees to provide a cash/in-kind matching share in the amount of Twenty-One Thousand One Hundred and Eighty-five Dollars (\$21,185). Based on an average of 21 serving days per month, the AAA estimates that the average number of monthly meals served by the Contractor shall not exceed 4,000 per month. The per meal reimbursement rate will be Five Dollars (\$5) per meal. The AAA will reimburse the Contractor an amount not to exceed Twenty Thousand Dollars (\$20,000) per month. The AAA shall pay

ARTICLE II. SCOPE OF WORK (Continued)

the Contractor monthly after receiving and approving Contractor's monthly cash flow report and request for funds.

2. Implement the statutory provisions of the Title III and Title VII Programs (OAA, Section 306) in accordance with State and federal laws and regulations. Contractor shall make every effort to meet the goals and objectives stipulated in the Scope of Work, AAA four-year Area Plan and annual updates of the Area Plan's Goals, Objectives, and Service Unit Plan, herein incorporated into this Agreement by reference. Performance shall not be unilaterally reduced or otherwise changed without prior consultation with, and written approval of, the County AAA.
3. Establish and maintain an organization that shall have the ultimate accountability for funds received from the AAA and for the effective and efficient implementation of the activities as described in the Scope of Work and all pertinent State and federal laws and regulations including data reporting requirements.
4. Meet the requirements under the OAA, Section 301(a) (1) to secure and maintain maximum independence and dignity in a home environment for the eligible service population capable of self-care with appropriate supportive and nutrition services.
5. Conduct and/or promote activities for the prevention and treatment of elder abuse, neglect, and exploitation, as required under the OAA, Section 721.
6. Submit budgets and expenditures and any subsequent amendments and revisions to budgets to AAA as requested, within time period set by AAA.
7. Respond as requested by AAA to any monitoring findings and document plan of correction within time period set by AAA.
8. Submit in writing any requests for direction, guidance, and interpretation of instructions, including client and service data reporting requirements.
9. Contractor must maintain up-to-date program Policy and Procedure Manual so that all responsible persons have ready access to standards, policies, and procedures. The program policy and procedure manual must be reviewed and approved by the AAA annually.
10. Provide program information and assistance to the public. Program brochures must be available in both English and Spanish. A minimum of 250 English and Spanish program brochures must be provided to the AAA semi-annually.

ARTICLE II. SCOPE OF WORK (Continued)

11. Maintain a program data collection and reporting system as specified. Collect and submit monthly and annual fiscal and NAPIS data as requested by the AAA.

B. Provision of Services

1. Alternative communication services.

- a. Contractor shall take reasonable steps to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. (22 CCR 98211)
- b. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
  1. Interpreters or bilingual providers and provider staff.
  2. Contracts with interpreter services.
  3. Use of telephone interpreter lines.
  4. Sharing of language assistance materials and services with other providers.
  5. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
  6. Referral to culturally and linguistically appropriate community service programs.
- c. Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits. (22 CCR 98211)
- d. Contractor shall notify its employees of clients' rights regarding language access and Contractor's obligation to ensure access to alternative communication services where determined appropriate. (22 CCR98324)
- e. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. (22 CCR98370)

2. Compliance Monitoring

- a. The AAA shall monitor, evaluate, and take effective action to

ARTICLE II. SCOPE OF WORK (Continued)

address any needed improvement in the delivery of, culturally and linguistically appropriate services provided by the Contractor. (22 CCR 98310)

- b. The Contractor shall respond as requested by the AAA, in writing, to any monitor or routine evaluation findings; documenting a plan of correction within time period set by AAA.
- c. Contractor shall permit timely access to all records of compliance. Failure to provide access to such records may result in appropriate sanctions. (22 CCR 98314)

3. Notice to Eligible Beneficiaries of Contracted Services

- a. Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. (22 CCR 98325)
- b. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the AAA procedure for filing a complaint and other information regarding the provisions of Government Code section 11135 et seq. (22 CCR 98326)
- c. Contractor shall notify the AAA immediately of a complaint alleging discrimination based upon a violation of State or federal law. (22 CCR 98211, 98310, 98340)

C. Units of Service

1. Congregate Meals Program (C-1)

- a. Unit of Service: 36,000 meals / contract period.

Goals: One meal per day, at least three days per week. The meals must comply with:

- 1) AAA C-1 Senior Meals Requirements
- 2) State and Federal mandates for the program (Title 22 Division 1.8 Chapter 4 and Article 6 Title III C - Elderly Nutrition Program) currently 1/3 of the Dietary Reference Intake (DRI).
- 3) The California Food Code and Local Environmental Health Department Regulations.

**COUNTY OF STANISLAUS  
STANDARD AGREEMENT**

**“Home-Delivered (C-2) Meal Program”**

1. This Agreement is entered into between the County of Stanislaus and the following named Contractor  
*(If other than an individual, state whether a corporation, partnership, etc.):*  
ARC of Stanislaus County, DBA Howard Training Center, a California corporation
2. The term of this Agreement is:  
October 1, 2012 to June 30, 2013, subject to early termination per Article XII, A. of Exhibit D.
3. The maximum amount of payment based on XX lump sum, or \_\_\_ time and materials is:  
Not to exceed \$ 502,650.00 Payable monthly
4. The parties agree to comply with the terms and conditions of the following exhibits which, by this reference, are made a part of the Agreement:
  - (a) Exhibit A -- Standard Agreement for Independent Contractor Services
  - (b) Exhibit B -- Scope of Work
  - (c) Exhibit C -- Budget Detail, Payment Provisions, and Closeout
  - (d) Exhibit D -- Special Terms and Conditions
  - (e) Exhibit E -- Additional Provisions
  - (f) Other (e.g. Contractor's Proposal) N/A

IN WITNESS WHEREOF, the parties have executed this Agreement on October 1, 2012  
*(Date)*

**CONTRACTOR**

Contractor's Name

By *(Authorized Signature)*

Printed Name and Title of Person Signing

Mailing Address

**COUNTY OF STANISLAUS**

Department Name  
Aging and Veterans Services

By *(Authorized Signature)*

Printed Name and Title of Person Signing

Margie Palomino, Director

Mailing Address

121 Downey Avenue, Suite 102  
Modesto, California 95354

Approved for Content:

Margie Palomino, Director

Approved for Form:

  
Deirdre McGrath, Deputy County Counsel

**EXHIBIT "A"**  
**AGREEMENT**  
**FOR**  
**INDEPENDENT CONTRACTOR SERVICES**

This Agreement For Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and ARC of Stanislaus County DBA Howard Training Center, a California corporation ("Contractor") on October 1, 2012.

**Recitals**

WHEREAS, the County has a need for services involving a Home-Delivered Meals Program, and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

**Terms and Conditions**

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit B**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in



Exhibit D. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

## 2. Consideration

2.1 County shall pay Contractor as set forth in Exhibit B.

2.2 Except as expressly provided in Exhibit B of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

## 3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit D.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days

of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 90 days prior written notice to the Contractor or as specified in Exhibit D. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

#### 4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

#### 5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit D, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit B to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

#### 6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits

covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-:VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

## 7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of

use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

## 8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an

agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

## 9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement, or for the necessary period described in Exhibit D. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

## 10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

## 11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L.

88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus  
Department of Aging and Veterans Services  
Attention: Margie Palomino, Director  
121 Downey Avenue, Suite 102  
Modesto, California 95354

To Contractor: ARC-Howard Training Center  
Claudia K. Miller, Executive Director  
1424 Stonum Rd  
Modesto, CA 95351

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance

shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement and its incorporated Exhibits supersede any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.



## ARTICLE I. DEFINITIONS

### A. DEFINITIONS SPECIFIC TO TITLE III AND TITLE VII PROGRAMS

1. **Program Requirements** means Title III program requirements found in the Older Americans Act (OAA 42 USC Section 3001-3058), Code of Federal Regulations (45 CFR XIII, 1321); Title 22, California Code of Regulations (CCR), Section 7000 et seq., and Department Program Memoranda.
2. **Title III B (Supportive Services)** means a variety of services including, but not limited to: homemaker, adult day care/adult day health, case management, assisted transportation, legal assistance, information and assistance, outreach, and long-term care ombudsman advocacy, as defined in the National Aging Programs Information Systems (NAPIS) categories and National Ombudsman Reporting System (NORS).
3. **Priority Services** means those services associated with access to services (transportation, outreach, information and assistance, and case management); in-home services including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and legal assistance.
4. **Title III C-1 (Congregate Nutrition Services)** means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA) and comply with the current Dietary Guidelines for Americans.
5. **Title III C-2 (Home-Delivered Nutrition Services)** means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA) and comply with the current Dietary Guidelines for Americans.
6. **Nutrition Services Incentive Program (NSIP)** means the program whose purpose is to provide incentives to encourage and reward effective performance by AAAs in the efficient delivery of nutritious meals to older individuals. The program consists of a cash allotment based on the ratio of the number of meals served by each PSA compared to the total number of meals served in the State in the preceding year.
7. **Title III D (Disease Prevention and Health Promotion Services)** means a variety of activities to maintain or improve the physical, mental, and

ARTICLE I. DEFINITIONS (Continued)

nutritional health of older persons, to include the following specific activities: disease prevention, health promotion education, nutrition education, nutrition counseling, nutrition risk screening services, medication management, home security equipment, family support, community education/advocacy, information, outreach, physical fitness, therapy, and comprehensive assessment.

“Medication Management” means medication screening and education to prevent incorrect medication and adverse drug reactions and is a required service with a separate funding allocation.

8. **Program Income** means revenue generated by the Contractor from contract-supported activities. Program income is:
  - a. Voluntary contributions received from a participant or responsible party as a result of services.
  - b. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
  - c. Royalties received on patents and copyrights from contract-supported activities.
  - d. Proceeds from sale of items fabricated under a contract agreement.
9. **One-Time-Only** means federal funds reported as unspent in the Financial Closeout Report, recovered through the Audit Resolution process, and/or made available from other sources.
10. **Indirect Costs** means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.
11. **Eligible Service Population** for Title III means any person 60 years of age or older, or the spouse of that person, is eligible receive services under this Agreement. Although the program is especially designed to serve persons with the greatest economic or social need with particular attention to low income minority individuals and older individuals residing in rural areas, as established by the California Department of Aging, no means test shall be used to disqualify a person from receiving services.
12. **Program Overview: Home-Delivered Meals (C-2)**. Defined as: The procurement, preparation, transportation, and other provision needed for meal service and nutrition education to eligible older persons in their

## ARTICLE I. DEFINITIONS (Continued)

homes. This includes delivery, route management, and administration of the program. The meals may be fresh or frozen. Contractor shall provide at least 5 meals per week, delivered, at minimum, 2 days per week. Menu analysis and Nutrition Educations are planned and pre-approved by a Registered Dietitian with the Area Agency on Aging.

13. **Voluntary Contributions.** Each person receiving services will be given free and voluntary opportunity to donate towards the cost of the service. The suggested donation per meal is \$3.00. Contractor shall send a letter and envelope requesting the minimum donation to seniors on a weekly basis. The privacy of each older person with respect to the donation will be protected. All donations will be safeguarded and an accounting will be kept for all contributions received. All contributions will be used for program expenses. No person will be denied services if a donation is not made.
14. **Advertising.** Contractor shall include the phrase "Funded by the Stanislaus County Area Agency on Aging" on any flyers, posters, or printed matter advertising services funded through Title III and Title VII of the Older Americans Act.

## ARTICLE II. SCOPE OF WORK

### A. The Contractor shall perform the following for Title III and Title VII Programs:

1. In consideration of the timely performance of the Contractor in a manner consistent with the law and this Agreement, including reporting requirements, the AAA shall pay the Contractor the total amount not to exceed Five Hundred Two Thousand Six Hundred and Fifty Dollars (\$502,650) for the Home-Delivered Meals Program (C-2) in consideration for satisfactory performance as determined by the AAA. Contractor agrees to provide a cash/in-kind matching share in the amount of Fifty-nine Thousand One Hundred and Fifty-eight Dollars (\$59,158). Based on the Priority System developed by the AAA and approved by the California Department of Aging, available funding will only serve Priority I and II seniors, approximately 500 seniors a month. The average number of monthly meals served shall not exceed 12,411 meals. The reimbursement rate will be Four Dollars and Fifty Cents (\$4.50) per meal. Therefore, the AAA will reimburse the Contractor an amount not to exceed Fifty-five Thousand Eight Hundred and Fifty Dollars (\$55,850) per month. The AAA shall pay the Contractor monthly after receiving and approving Contractor's monthly cash flow report and request for funds.
2. Implement the statutory provisions of the Title III and Title VII Programs (OAA, Section 306) in accordance with State and federal laws and

ARTICLE II. SCOPE OF WORK (Continued)

regulations. Contractor shall make every effort to meet the goals and objectives stipulated in the Scope of Work, AAA four-year Area Plan and annual updates of the Area Plan's Goals, Objectives, and Service Unit Plan, herein incorporated into this Agreement by reference. Performance shall not be unilaterally reduced or otherwise changed without prior consultation with, and written approval of, the County AAA.

3. Establish and maintain an organization that shall have the ultimate accountability for funds received from the AAA and for the effective and efficient implementation of the activities as described in the Scope of Work and all pertinent State and federal laws and regulations including data reporting requirements.
4. Meet the requirements under the OAA, Section 301(a) (1) to secure and maintain maximum independence and dignity in a home environment for the eligible service population capable of self-care with appropriate supportive and nutrition services.
5. Conduct and/or promote activities for the prevention and treatment of elder abuse, neglect, and exploitation, as required under the OAA, Section 721.
6. Submit budgets and expenditures and any subsequent amendments and revisions to budgets to AAA as requested, within time period set by AAA.
7. Respond as requested by AAA to any monitoring findings and document plan of correction within time period set by AAA.
8. Submit in writing any requests for direction, guidance, and interpretation of instructions, including client and service data reporting requirements.
9. Contractor must maintain up-to-date program Policy and Procedure Manual so that all responsible persons have ready access to standards, policies, and procedures. The program policy and procedure manual must be reviewed and approved by the AAA annually.
10. Provide program information and assistance to the public. Program brochures must be available in both English and Spanish. A minimum of 250 English and Spanish program brochures must be provided to the AAA semi-annually.
11. Maintain a program data collection and reporting system as specified. Collect and submit monthly and annual fiscal and NAPIS data as requested by the AAA.

ARTICLE II. SCOPE OF WORK (Continued)

12. Providers of Title III-C programs shall annually assess the client's nutrition risk using a valid nutrition screening tool. [OAA §339(2)(J)][OAA §207(a)(3)] This shall apply to Home-Delivered participants.

B. Provision of Services

1. Alternative communication services.

- a. Contractor shall take reasonable steps to ensure that "alternative communication services" are available to non-English speaking or LEP beneficiaries of services under this Agreement. (22 CCR 98211)
- b. "Alternative communication services" include, but are not limited to, the provision of services and programs by means of the following:
  1. Interpreters or bilingual providers and provider staff.
  2. Contracts with interpreter services.
  3. Use of telephone interpreter lines.
  4. Sharing of language assistance materials and services with other providers.
  5. Translated written information materials, including but not limited to, enrollment information and descriptions of available services and programs.
  6. Referral to culturally and linguistically appropriate community service programs.
- c. Contractor shall ensure that reasonable alternative communication services are available to meet the linguistic needs of identified eligible client population groups at key points of contact. Key points of contact include, but are not limited to, telephone contacts, office visits and in-home visits. (22 CCR 98211)
- d. Contractor shall notify its employees of clients' rights regarding language access and Contractor's obligation to ensure access to alternative communication services where determined appropriate. (22 CCR 98324)
- e. Noncompliance with this section may result in suspension or termination of funds and/or termination of this Agreement. (22 CCR 98370)

2. Compliance Monitoring

- a. The AAA shall monitor, evaluate, and take effective action to

ARTICLE II. SCOPE OF WORK (Continued)

address any needed improvement in the delivery of, culturally and linguistically appropriate services provided by the Contractor. (22 CCR 98310)

- b. The Contractor shall respond as requested by the AAA, in writing, to any monitor or routine evaluation findings; documenting a plan of correction within time period set by AAA.
- c. Contractor shall permit timely access to all records of compliance. Failure to provide access to such records may result in appropriate sanctions. (22 CCR 98314)

3. Notice to Eligible Beneficiaries of Contracted Services

- a. Contractor shall designate an employee to whom initial complaints or inquiries regarding national origin can be directed. (22 CCR 98325)
- b. Contractor shall make available to ultimate beneficiaries of contracted services and programs information regarding the AAA procedure for filing a complaint and other information regarding the provisions of Government Code section 11135 et seq. (22 CCR 98326)
- c. Contractor shall notify the AAA immediately of a complaint alleging discrimination based upon a violation of State or federal law. (22 CCR 98211, 98310, 98340)

C. Units of Service

1. Home-Delivered Meals Program (C-2)

- a. Unit of Service: 111,699 meals / contract period.

Goals: Five meals per week, delivered at least two days per week.  
The meals must comply with:

- 1) AAA C-2 Home-Delivered Meals Requirements
- 2) State and Federal mandates for the program (Title 22 Division 1.8 Chapter 4 and Article 6 Title III C - Elderly Nutrition Program) currently 1/3 of the Dietary Reference Intakes (DRI).
- 3) California Food Code, and local health regulations.

ARTICLE I. FUNDS

A. Expenditure of Funds

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Funds made available for Ombudsman expansion of volunteer recruitment activities in the Budget Act shall be used by the Contractor to expand the Long-Term Care Ombudsman Program and shall not be used for activities of any other programs.
3. The Area Agency on Aging (AAA) reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by the AAA to be: out of compliance with this Agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

B. Accountability for Funds

The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

C. Unexpended Funds

Upon termination, cancellation, or expiration of this Agreement, or dissolution of the entity, the Contractor shall return to the AAA immediately upon written demand, any funds provided under this Agreement, which are not payable for goods or services delivered prior to the termination, cancellation, or expiration of this Agreement, or the dissolution of the entity.

D. Availability of Funds

1. It is understood between the parties that this Agreement may have been written before ascertaining the availability of appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the Budget Acts of the appropriate fiscal years for the purpose of these programs. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute

## ARTICLE I. FUNDS (Continued)

enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

## 3. Limitation of State Liability

Payment for performance by the Contractor shall be dependent upon the availability of future appropriations by the Legislature or Congress for the purposes of this contract and approval of a Budget. No legal liability on the part of the AAA for any payment may arise under this contract until funds are made available, the budget is received and approved by the AAA, and the Contractor has received an executed contract.

## 4. Funding Reduction(s)

a. If funding for any State fiscal year is reduced or deleted by the Legislature, or Congress for the purposes of this program, the AAA shall have the option to either:

- Terminate the Contract pursuant to Exhibit D, Article XII, A.
- Offer a contract amendment to the Contractor to reflect the reduced funding for this contract.

b. In the event that the AAA elects to offer an amendment, it shall be mutually understood by both parties that (1) the AAA reserves the right to determine which services, if any, under this program shall be reduced and (2) some programs may be reduced by a greater amount than others, and (3) that the AAA shall determine at its sole discretion the amount that the contract shall be reduced for the fiscal year.

E. Interest Earned

1. Contractor may keep interest amounts earned on advances of federal funds up to \$100 per year for Local Government Agencies or \$250 for non-profit organizations for administrative expenses. Interest earned above the stated limit shall be remitted at least quarterly to the Department's Accounting Section. [45CFR 92.21(i); 45CFR 74.22(l)]
2. Interest earned on advances of federal and non-federal funds shall be identified as non-match cash.
3. Contractor may retain interest on non-federal funds if it reasonably demonstrates that such interest was earned on non-federal funds. If the Contractor fails to adequately demonstrate the source of the interest, then



ARTICLE I. FUNDS (Continued)

such interest will be considered earned on federal funds and shall be remitted, at least quarterly, to the Department's Accounting Sections.

4. Non-profits shall maintain advances of federal funds in interest bearing accounts, unless (a), (b), or (c) apply.
  - a. The recipient receives less than \$120,000 in federal awards per year.
  - b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
  - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

F. Program Income

1. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated.
2. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned (except as noted in 4).
3. For Title III B, III C, III D, III E, VII Ombudsman, and VII Elder Abuse Prevention programs, Program Income must be spent before contract funds (except as noted in 4) and may reduce the total amount of contract funds payable to the Contractor.
4. For Title III B, III C, III D, III E, VII Ombudsman, and VII Elder Abuse Prevention programs, if Program Income is earned in excess of the amount reported in the Budget, the excess amount may be deferred for use in the first quarter of the following contract period.
5. Program Income may not be used to meet the matching requirements of this Agreement.
6. Program Income must be used to expand services.
7. ADCRC client fees may be retained and expended without regard to fiscal year, provided that the income is shown as restricted funds in the accounting records and financial statements of the Contractor, and used for costs of the ADCRC.

## ARTICLE I. FUNDS (Continued)

G. One-Time-Only (OTO) Funds

1. OTO funds are non-transferable between funding sources. This means that OTO funds can only be used in the program in which it was accrued.
2. OTO funds can only be awarded to a subcontractor that has a valid contract with the AAA. All contracts shall be procured either through an open and competitive procurement process pursuant to Title 22 CCR Section 7532 or through a non-competitive award pursuant to Title 22 CCR Section 7360.
3. Titles III and VII federal Program One-Time-Only funds shall be used for the following purposes:
  - a. The purchase of equipment that enhances the delivery of services to the eligible service population must be an allowable cost of the program.
  - b. Home and community-based projects that are approved in advance by the Department, and are designed to address the unmet needs of the eligible service population identified in the Area Plan.
  - c. Innovative pilot projects that are approved in advance by the Department, and are designed for the development or enhancement of a comprehensive and coordinated system of services as defined in [45CFR 1321.53(a) & (b).]
  - d. Baseline services. OTO funds can be used to maintain or increase baseline services. However, AAAs shall assure that services funded with OTO funds will not create an expectation of service delivery beyond the current contract period. Expenditures for baseline services do not require advance Department approval.
4. Nutrition Services Incentive Program (NSIP) One-Time-Only funds shall be used to purchase food used in the Elderly Nutrition Program.

H. Matching Contributions

Matching Contributions mean local cash and / or in-kind contributions by the Contractor, subcontractor, or other local resources that qualify as match for the contract funding.

1. Cash and / or in-kind contributions may count as match, if such contributions are used to meet program requirements.

ARTICLE I. FUNDS (Continued)

2. Any matching contributions (cash or in-kind) must be verifiable from the records of the Contractor or subcontractor.
3. Matching contributions must be used for allowable costs in accordance with the Office of Management and Budget (OMB) circulars.

ARTICLE II. BUDGET AND BUDGET REVISION

- A. The Contractor shall be compensated for expenses only as itemized in the approved Budget and shall not be entitled to payment for these expenses until the Budget is reviewed and approved by the AAA. The approved Budget is hereby incorporated by reference into this Agreement as a part of Exhibit B.
- B. The Contractor shall electronically submit the original Budget.
- C. The Contractor shall electronically submit a budget revision 30 days after receiving an amended Budget with changes in funding levels, unless otherwise instructed by the AAA.
- D. Matching Requirements
  1. The required program matching contributions for Title III B, III C, & III D is 10 percent.
  2. Minimum matching requirements are calculated on net costs, which are total costs less program income, non-matching contributions, and State funds.
  3. Matching contributions generated in excess of the minimum required are considered overmatch.
  4. The required program matching contributions for Alzheimer's Day Care Resource Center program is 25 percent.
  5. The required program matching contributions for Brown Bag program is 25 percent cash and 25 percent in-kind.
- E. Indirect Costs
  1. The maximum reimbursement amount allowable for indirect costs is 8% of Contractor's direct costs, excluding in-kind contributions and nonexpendable equipment.
  2. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate or an allocation plan documenting the methodology used to determine the indirect costs.

ARTICLE II. BUDGET AND BUDGET REVISION (Continued)

3. Indirect costs exceeding the 8% maximum may be budgeted as in-kind and used to meet the minimum matching requirements.

ARTICLE III. PAYMENTS

- A. Title III-B, III-C, III-D, VII Ombudsman, VII Elder Abuse Prevention, and Community-Based Services Programs

The Contractor shall prepare and submit by the 15<sup>th</sup> of each month to the AAA, in electronic format, an Expenditure and Request for Funds Data file, unless otherwise specified by the AAA.

- B. The AAA shall review requests for payment to ensure compliance with the approved Budget.

- C. Financial Management Systems

The Contractor shall meet the following standards for its financial management systems, as stipulated in 45 CFR 92.20:

1. Financial Reporting
2. Accounting Records
3. Internal Control
4. Budgetary Control
5. Allowable Costs
6. Source Documentation
7. Cash Management

- D. The AAA may require financial reports more frequently than indicated above or with more detail (or both), upon written notice to the Contractor, until such time as the AAA determines that the financial management standards are met.

ARTICLE IV. CLOSEOUT

- A. No later than forty-five (45) days after the ending date of this Agreement, Contractor shall provide the AAA with a Closeout Report of funds which have remained unexpended at the ending date of the grant. Upon termination or expiration of this Agreement, upon written demand, Contractor shall immediately return to AAA any unencumbered funds received under this Agreement.
- B. Federal funds will be reduced proportionately to maintain the required matching ratios if a Contractor fails to report sufficient match in the Closeout Report.

ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS

A. Definitions

1. The term "Agreement" or "Contract" shall mean the Standard Agreement exhibits A, B, C, D, and E, and an approved Budget, which is hereby incorporated by reference, amendments, and any other documents incorporated by reference, unless otherwise provided for in this Article.
2. Contractor's proposal, including its modifications as agreed to by Contractor and the AAA, shall be part of this Agreement.
3. The text of the request for proposal and / or grant renewal application, including general program requirements and specific program requirements (as contained in the descriptive Scope of Work (Exhibit A) shall be part of this Agreement.
4. The Contractor shall comply with all applicable written communication and other guidance issued by the AAA. In the event of conflict between the written communication and / or other AAA guidance and the provisions in this Agreement, the provisions in this contract shall prevail.
5. "AAA" and "County" means the Stanislaus County Area Agency on Aging and Stanislaus County interchangeably.
6. "Contractor" means the Service Provider to which funds are awarded under this Agreement and which is accountable to the AAA, State and / or federal government for use of these funds and which is responsible for executing the provisions for services of this Agreement.
7. "CFR" means Code of Federal Regulations. "CCR" means California Code of Regulations. "GC" means Government Code. "W & I" means Welfare and Institutions Code. "USC" means United States Code. "PCC" means the Public Contract Code.

B. Resolution of Language Conflicts

The terms and conditions of this federal Award and other requirements have the following order of precedence if there is any conflict in what they require:

1. The Older Americans Act Amendments of 2006 (OAA as amended);
2. Other applicable Federal statutes and their implementing regulations;
3. Older Californians Act;
4. Title 22 CCR § 7000 et. seq.;
5. Standard Agreement (Std. 213), all Exhibits and any amendments thereto;
6. Any other documents incorporated herein by reference;
7. Program memos and other guidance issued by the Department.

## ARTICLE II. ASSURANCES

A. Law, Policy and Procedure, Licenses, and Certificates

The Contractor agrees to administer this Agreement with all applicable local, State, and federal laws and regulations including, but not limited to, discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to this Agreement and resolve all issues using good administrative practices and sound judgment. The Contractor shall keep in effect all licenses, permits, notices, and certificates that are required by law.

B. Nondiscrimination

The Contractor shall comply with all federal statutes relating to nondiscrimination. These include those statutes and laws contained in the Contractor Certification Clauses (CCC1005) which is hereby incorporated by reference. In addition, Contractor shall comply with the following:

1. Equal Access to Federally-Funded Benefits, Programs and Activities (Title VI of the Civil Rights Act of 1964.)

Contractor shall ensure compliance et seq. with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d; 45 C.F.R. Part 80), which prohibits recipients of federal financial assistance from discriminating against persons based on race, color, religion, or national origin.

2. Equal Access to State-Funded Benefits, Programs and Activities

Contractor shall, unless exempted, ensure compliance with the requirements of Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of Regulations, which prohibit recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. (22 CCR 98323) (Chapter 182, Stats.2006)

3. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.).

C. Standards of Work

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

ARTICLE II. ASSURANCES (Continued)

D. Conflict of Interest

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, funds may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.
2. This provision shall not be construed to prohibit employment of persons with whom the Contractor's officers, agents, or employees have family, business, or other ties, so long as the employment of such persons does not result in a conflict of interest (real or apparent) or increased costs over those associated with the employment of any other equally qualified applicant, and such persons have successfully competed for employment with the other applicants on a merit basis.

E. Covenant Against Contingent Fees

1. The Contractor warrants that no person or selling agency has been employed or retained to solicit this Agreement. There has been no agreement to make commission payments in order to obtain this Agreement.
2. For breach or violation of this warranty, the AAA shall have the right to terminate this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingency fee.

F. Payroll Taxes and Deductions

The Contractor shall promptly forward payroll taxes, insurances, and contributions, including State Disability Insurance, Unemployment Insurance, Old Age Survivors Disability Insurance, and federal and State income taxes withheld, to designated governmental agencies.

G. Contracts in Excess of \$100,000

If all funding provided herein exceeds \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:

1. Clean Air Act, as amended (42 USC 1857).
2. Clean Water Act, as amended (33 USC 1368).

ARTICLE II. ASSURANCES (Continued)

3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
5. Public Contract Code Section 10295.3

H. Debarment, Suspension, and Other Responsibility Matters

1. The Contractor certifies to the best of its knowledge and belief, that it:
  - a. Is not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Has not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - d. Has not within a three-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.
  - e. Contractor shall report immediately to the AAA in writing any incidents of alleged fraud and/or abuse by Contractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the AAA.

I. Contractor's Staff

1. The Contractor shall maintain adequate staff to meet the contractor's obligations under this Agreement.
2. This staff shall be available to the AAA for training and meetings which the AAA may find necessary from time to time.



ARTICLE II. ASSURANCES (Continued)

J. Corporate Status

1. The Contractor shall be a public or private nonprofit entity. If a private nonprofit corporation, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. In the event that use of a subcontractor is authorized for any portion of the project, Contractor shall, nevertheless, retain the prime responsibility for performance of the work and for assurance of the availability and retention of records in accordance with Exhibit D, Article VI. A. Specifications for any subcontract shall be submitted in writing to the AAA for approval fifteen (15) days prior to award. Any and all subcontracting shall be done in accordance with management and procurement procedures established by the AAA.
3. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
4. Failure to maintain good standing by the contracting corporation shall result in suspension or termination of this Agreement with the AAA until satisfactory status is restored.

K. Lobbying Certification

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative

ARTICLE II. ASSURANCES (Continued)

agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE III. AGREEMENT

A copy of this Agreement is on file and available for inspection at the Stanislaus County Area Agency on Aging, 121 Downey Avenue, Suite 102, Modesto, California, 95354.

ARTICLE IV. COMMENCEMENT OF WORK

Should the Contractor begin work in advance of receiving notice that this Agreement is approved, that work may be considered as having been performed at Contractor's risk as a mere volunteer and may not be reimbursed or compensated.

ARTICLE V. SUBCONTRACTS OR VENDOR AGREEMENTS

- A. The Contractor shall indemnify, defend, and save harmless the County, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, vendors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor and/or vendor in the performance of this Agreement.
- B. The Contractor shall maintain adequate staff to meet this Agreement. This staff shall be available to the AAA and the State for training and meetings which the AAA and the State may find necessary from time to time.

ARTICLE VI. RECORDS

- A. The Contractor shall maintain complete records (which shall include, but not be limited to, accounting records, insurance documentation in accordance with this Article, patient or client records, and electronic files) of its activities and expenditures hereunder in a form satisfactory to the AAA and shall make all records pertaining to this Agreement available for inspection and audit by the AAA or its duly authorized agents, at any time during normal business hours. All such records must be maintained and made available by the Contractor: (a) until

ARTICLE VI. RECORDS (Continued)

an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the California Department of Aging (CDA) and AAA's Audit Branches, (b) for such longer period, if any, as is required by applicable statute, by any other clause of this Agreement, or by Sections B, and C of this Article, and (c) for such longer period as the AAA and CDA deems necessary.

- B. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the same periods as specified in Section A above. The Contractor shall ensure that any resource directories and all client records remain the property of the AAA upon termination of this Agreement, and are returned to the AAA or transferred to another Contractor as instructed by the AAA.
- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the AAA and CDA, and so stated in writing to the Contractor.
- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the AAA under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures will be questioned in the audit and may be disallowed by the AAA and/or CDA during the audit resolution process.
- E. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

ARTICLE VII. PROPERTY

- A. Unless otherwise provided for in this Article, property refers to all assets, capitalized or noncapitalized, used in operation of this Agreement. Property that is capitalized is referred to as property, plant, and equipment. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
- B. Property meeting all of the following criteria are subject to the capitalization requirements. Such property must:
  - 1. Have a normal useful life of at least 1 year;
  - 2. Have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12,000 total would not meet this

ARTICLE VII. PROPERTY (Continued)

capitalization requirement); and

3. Be used to conduct business under this Agreement.

As used in this Agreement, the term "equipment" shall refer only to capitalized property.

- C. Noncapitalized property are those items which do not meet all three requirements in this Article, Section B above.
- D. Additions, improvements, and betterments to assets meeting all of the conditions in Section B above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.
- E. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or noncapitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

- F. The Contractor shall record the following information when property is acquired:
  1. Date acquired;
  2. Property description (include model number);
  3. Property identification number (serial number);
  4. Cost or other basis of valuation;
  5. Fund source; and
  6. Rate of depreciation (or depreciation schedule), if applicable.

The Contractor shall keep track of property purchased with Contract funds, whether capitalized or not. The Contractor shall submit to the AAA, annually with the Closeout, a current inventory of property furnished or purchased by the

**ARTICLE VII. PROPERTY (Continued)**

Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose.

- G. Prior to disposal of any property purchased by the Contractor with funds from this Agreement, the Contractor must obtain approval from the AAA regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the AAA.
- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- I. The AAA reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- J. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from the AAA regarding the final disposition of the property.
- K. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the AAA. The AAA reserves the right to require the Contractor to transfer such property to another entity, or to the AAA.
- L. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the AAA will issue specific written disposition instructions to the Contractor.
- M. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the AAA for other purposes in this order:
  - 1. Another Department program providing the same or similar service; or
  - 2. Another Department-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the AAA. As a condition of the approval, the AAA may require reimbursement under this Agreement for its use.
- O. The Contractor shall not use equipment or supplies acquired under this Agreement with federal and/or State monies for personal gain or to usurp the

ARTICLE VII. PROPERTY (Continued)

competitive advantage of a privately-owned business entity.

- P. If purchase of equipment is a reimbursable item, the equipment to be purchased will be specified in the budget.

ARTICLE VIII. ACCESS

The Contractor shall provide access to the federal or State agency, Bureau of State Audits, the Controller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, records, and electronic files of the Contractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions.

ARTICLE IX. MONITORING, ASSESSMENT, AND EVALUATION

- A. Authorized AAA representatives shall have the right to monitor, assess, and evaluate the Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of project premises, inspection of food preparation sites, and interviews of project staff and participants.
- B. The Contractor shall cooperate with the AAA in the monitoring, assessment, and evaluation processes, which include making any Administrative program and fiscal staff available during any scheduled process.
- C. Authorized county, state or federal representatives shall have the right to inspect Contractor's administrative offices, service sites, and food preparation sites during normal business hours.

ARTICLE X. AUDITS

- A. Contractors that expend \$500,000 or more in Federal Awards shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget (OMB) Circular A-133, and a copy submitted to the:

Stanislaus County Area Agency on Aging  
Attention: Fiscal Officer  
121 Downey Avenue, Suite 102  
Modesto, California 95354

The copy shall be submitted within the earlier of 30 days after receipt of the auditor's report or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency.

ARTICLE X. AUDITS (Continued)

The contractor shall ensure that State-Funded expenditures are displayed discreetly along with the related federal expenditures in the single audit report's "Schedule of Expenditures of Federal Awards" under the Catalog of Federal Domestic Assistance number 93.779.

For State contracts that do not have CFDA numbers, the Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number, and as passed-through the California Department of Aging.

B. This section B applies only to Title III/VII.

The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major program whether a program specific audit may be elected. The contractor shall communicate this information to the independent auditor conducting the organization's single audit.

10.576	Seniors Farmers Market Program
93.041	Special Programs for the Aging-Title VII, Chapter 3- Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-B)
93.042	Special Programs for the Aging-Title VII, Chapter 2- Long Term Care Ombudsman services for Older Individuals (Title VII-A)
93.043	Special Programs for the Aging-Title III, Part D- Disease Prevention and Health Promotion Services (Title III-D)
93.044	Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B)
93.045	Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C)
93.052	National Family Caregiver Support-Title III, Part E
93.053	Nutrition Services Incentive Program (NSIP)

Cluster of programs means a grouping of closely-related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other Clusters" are as defined by the OMB in the Compliance Supplement or as designated by a State for federal awards the State provides to its subrecipients that meet the definition of cluster of programs. When designating an "other cluster," a State shall identify the federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with §400 (d) (1) and §.400 (d) (2), respectively. A

ARTICLE X. AUDITS (Continued)

cluster of programs shall be considered as one program for determining major programs, as described in §.520, and, with the exception of R&D as described in §.200(c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular, A-133, Audits of States, Local Governments, and Non-Profit Organizations).

- C. The Contractor shall ensure that the single audit reports meet OMB Circular A-133 requirements:
  - 1. Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be submitted within 30 days after receipt of the auditor's report or nine months after the end of the audit period, whichever occurs first.
  - 2. Properly procured – use procurement standards provided for in OMB Circular A-133 and provide maximum opportunities to small and minority audit firms.
  - 3. Performed in accordance with Generally Accepted Government Auditing Standards – shall be performed by an independent auditor and be organization-wide.
  - 4. All inclusive – includes an opinion (or disclaimer of opinion) of the financial statements; a report on internal control related to the financial statements and major programs; an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements; and the schedule of findings and questioned costs.
  - 5. Performed in accordance with provisions applicable to this program as identified in OMB Circular A-133 Compliance Supplement.
- D. The Contractor shall include in its contract with the independent auditor that the auditor will comply with all applicable audit requirements/standards, the AAA and CDA shall have access to all audit reports and supporting work papers, and the AAA and CDA has the option to perform additional work, as needed.
- E. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The cost may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principle circulars.
- F. Unless prohibited by law, the cost of audits completed in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The cost may be considered a direct cost or an allocated



ARTICLE X. AUDITS (Continued)

indirect cost, as determined in accordance with the provisions of applicable OMB cost principle circulars.

- G. Contractor may not charge to Federal Awards the cost of any audit under the Single Audit Act Amendments of 1996 not conducted in accordance with the Act. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has Federal Awards expended of less than \$500,000 per year, and is thereby exempted under OMB Circular A-133, Subsection. 200(d). However, this does not prohibit the Contractor from charging Federal Awards for the cost of conducting a limited-scope audit to address compliance requirements provided the contractor is not required to obtain a single audit. These costs must be charged as an Administrative expense of the Contractor.

ARTICLE XI. INSURANCE

- A. Prior to commencement of any work under this Agreement, the Contractor shall provide for the term of this Agreement, the following insurance:

General liability of not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Higher limits may be required by the AAA and/or CDA in cases of higher than usual risks.

Automobile liability including non-owned auto liability, of not less than \$1,000,000 for volunteers and paid employees providing services supported by this Agreement.

If applicable, contractors shall comply with the Public Utilities Commission (PUC) General Order No. 115-F which requires higher levels of insurance for charter-party carriers of passengers and is based on seating capacity as follows:

\$750,000 if seating capacity is under 8  
\$1,500,000 if seating capacity is 8 – 15  
\$5,000,000 if seating capacity is over 15

unless otherwise amended by future regulation.

Professional liability of not less than \$1,000,000 as it appropriately relates to the services rendered. Coverage shall include medical malpractice and/or errors and omissions.

- B. The insurance will be obtained from an insurance company acceptable to the Department of General Services, Office of Risk and Insurance Management, or be provided through partial or total self-insurance acceptable to the Department of General Services.

ARTICLE XI. INSURANCE (Continued)

- C. Evidence of insurance shall be in a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management. Insurance obtained through commercial carriers shall meet the following requirements:
1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the AAA, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premiums.
  2. The Certificate of Insurance shall provide the statement: "The Stanislaus County Area Agency on Aging and the County of Stanislaus, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.
  3. The AAA shall be named the certificate holder and the address must be listed on the certificate.
- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the AAA, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the AAA may, in addition to any other remedies it may have, terminate this Agreement.
- E. The Contractor shall require its subcontractors or vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability.
- F. The Contractor shall be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions of the Labor Code and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).
- G. The entity providing Ombudsman services must be insured or self-insured for professional liability covering all Ombudsman activities including, but not limited to, investigation of patient complaints.

## ARTICLE XII. TERMINATION

A. Termination Without Cause

The AAA may terminate performance of work under this Agreement without cause in whole or in part, if the AAA determines that a termination is in the AAA's best interest. The AAA may terminate the Agreement upon 90 days written notice to the Contractor. The Notice of Termination shall specify the extent of the termination and shall be effective 90 from the delivery of the Notice of Termination. The parties agree that for the terminated portion of the Agreement, the remainder of Agreement shall be deemed to remain in effect and is not void. Upon termination of the Agreement, the Contractor shall submit to the AAA Transition Plan as specified in Exhibit E

B. Termination for Default

The AAA may terminate for cause the performance of work under this Agreement. The AAA may terminate the Agreement upon 30 days written notice to the Contractor. The Notice of Termination shall be effective 30 days from the delivery of the Notice of Termination unless the ground for termination is due to threat to life, health or safety of the public and in that case the termination shall take effect immediately. The grounds for termination for cause shall include but not limited to the following:

1. In case of threat of life, health or safety of the public. (Termination of Agreement shall be effective immediately.)
2. A violation of the law or failure to comply with any condition of this Agreement.
3. Inadequate performance or failure to make progress so as to endanger performance of this Agreement.
4. Failure to comply with reporting requirements.
5. Evidence that the Contractor is in an unsatisfactory financial condition as determined by an audit of the AAA or evidence of a financial condition that endangers performance of this Agreement and/or the loss of other funding sources.
6. Delinquency in payment of taxes or payment of costs for performance of this Agreement in the ordinary course of business.
7. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.

ARTICLE XII. TERMINATION (Continued)

8. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
9. The commission of an act of bankruptcy.
10. Finding of debarment or suspension, Article II J.
11. The Contractor's organizational structure has materially changed.
12. The AAA determines that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 local government and 45 CFR 74.14 for non-profit organization. If such a determination is made, the Contractor may be subject to special conditions or restrictions.
13. Funding is reduced or deleted for any State fiscal year by the Department of Finance, Legislature, or Congress.

C. Contractor's Obligation After Notice of Termination

After receipt of a Notice of Termination, and except as directed by the AAA, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any funds due under this clause.

The Contractor shall:

1. Stop work as specified in the Notice of Termination
2. Place no further subcontracts for materials, or services, except as necessary to complete the continued portion of the contract.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts (the approval or ratification of which will be final for purposes of this clause).

D. Effective Date

Termination of this Agreement shall take effect immediately in the case of an emergency such as threat to life, health, or safety of the public. In all other cases, the termination shall take effect 30 days subsequent to written notice to the Contractor. The notice shall describe the action being taken by the AAA, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the AAA and the procedure for doing so.

**ARTICLE XII. TERMINATION (Continued)**

**E. Voluntary Termination of Area Plan Agreement**

Pursuant to Title 22, Section 7210 the Contractor may voluntarily terminate its contract prior to its expiration either by mutual agreement with the AAA or upon 30 days written notice to the AAA.

In case of voluntary termination, the Contractor shall allow the AAA up to 180 days to transition services.

**F. In the event of termination, the AAA will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.**

**ARTICLE XIII. REMEDIES**

The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the AAA as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

**ARTICLE XIV. DISSOLUTION OF ENTITY**

The Contractor shall notify the AAA immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

**ARTICLE XV. REVISIONS OR MODIFICATIONS**

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.**
- B. The AAA reserves the right to revise, waive, or modify the Agreement to reflect any restrictions, limitations, or conditions enacted by Congress or the Legislature or as directed by the Executive Branch of State Government.**

**ARTICLE XVI. NOTICES**

- A. Any notice to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, overnight mail, postage prepaid, return receipt requested, or overnight mail to the addresses written on page 1 of the Standard Agreement; provided Contractor retains receipt, and shall be communicated as of actual receipt.**
- B. Any notice given to the AAA for a contractor's change of legal name, main address, or name of Director shall be addressed to the Director of the AAA on**

ARTICLE XVI. NOTICES (Continued)

the Contractor's letterhead.

ARTICLE XVII. CONFIDENTIALITY

- A. Identity shall include, but not be limited to, name, identifying number, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.
- B. The Contractor shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any participant. This provision shall remain in force even after termination.
- C. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- D. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the participant, any such identifying information to anyone other than the AAA without prior written authorization from the AAA.
- E. The Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such from any participant.
- F. The Contractor agrees to comply with the privacy and security requirements of Health Insurance Portability and Accountability Act (HIPAA) to the extent applicable and to take all reasonable efforts to implement HIPAA requirements.

ARTICLE XVIII. COPYRIGHTS AND RIGHTS IN DATA

A. Copyrights

- 1. If any material funded by this Agreement is subject to copyright, the AAA reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
- 2. The Contractor certifies that it has appropriate systems and controls in place to ensure that AAA funds will not be used in the performance of this contract for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

B. Rights in Data

- 1. The Contractor shall not publish or transfer any materials, as defined in

## ARTICLE XVIII. COPYRIGHTS AND RIGHTS IN DATA (Continued)

item 2 below, produced or resulting from activities supported by this Agreement without the express written consent of the Director of the AAA. That consent shall be given or the reasons for denial shall be given and any conditions under which it is given or denied within thirty (30) days after the written request is received by the AAA. The AAA may request a copy of the material for review prior to approval of the request. This subsection is not intended to prohibit contractors from sharing identifying client information authorized by the participant or summary program information which is not client-specific.

2. As used in this Agreement, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are first produced or developed under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.
3. Subject only to the provisions of Article XVII and Article XVIII of this Exhibit, the AAA may use, duplicate, or disclose in any manner, and have or permit others to do so subject to State and federal law all subject data delivered under this Agreement.
4. Materials published or transferred by Contractor shall: (a) state "The materials or product were a result of a project funded by a contract with the Stanislaus County Area Agency on Aging"; (b) give the name of the entity, the address, and telephone number at which the supporting data is available; and (c) include a statement that "The conclusions and opinions expressed may not be those of the Stanislaus County Area Agency on Aging and that the publication may not be based upon or inclusive of all raw data."

## ARTICLE XIX. SANCTION

- A. If it becomes necessary to withhold Agreement funds, suspend or terminate this Agreement, the AAA may proceed in accordance with its adopted sanction policy.
- B. Contractor may appeal any denial of funding, decreased funding, or sanction affecting a Title III or Title VII Older Americans Act project under this Agreement through use of the fair hearing procedure contained in the AAA Sanction Policy. Notification of sanction will be given in writing to Contractor at least ten (10)

**ARTICLE XIX. SANCTION (Continued)**

working days before the Board of Supervisors' session at which the recommendations for sanction are presented. A written request for a fair hearing must be made at least four (4) working days before the Board of Supervisors' session. Testimony and information may be presented to the Board of Supervisors at that time. The Board of Supervisors may issue a decision at that meeting or hold it over for more information. If the Contractor is not satisfied with said decision, a request for a hearing may be made with the California Department of Aging, 1300 National Drive, Suite 200, Sacramento, CA, 95834, in accordance with 22 CCR §7700 et. seq. Contractor may be represented by another person or organization at any stage in the proceedings. In the event that Contractor fails to exhaust its remedies under the appeals procedure above, or fails to abide by its time limits with respect to each step, the claim shall be presumed to be abandoned and the matter settled in accordance with the last decision rendered. A time limit may be extended by written agreement of Contractor and the reviewing body. In the event that the reviewing body fails to give its answer at any step within the time limit prescribed, Contractor shall have the right to proceed immediately to the next step.

**ARTICLE XX. APPEAL PROCESS**

- A. The Contractor may appeal the County's final adverse determination relating to Title III and VII programs using the appeal process established in Title 22 CCR, Sections 7700 through 7710.
- B. Appeal costs or costs associated with any court review are not reimbursable.

**ARTICLE XXI. ENACTMENT**

- A. This Agreement shall not be considered effective until it has been signed by the Contractor and approved by the Stanislaus County Board of Supervisors and signed by the Director of the Stanislaus County Department of Aging and Veterans Services (Area Agency on Aging).
- B. The term of the grant shall be limited to a maximum period of one year unless a shorter period or term is specified elsewhere in this Agreement.
- C. The initial contract period of July 1, 2006 through June 30, 2007 may be renegotiated with the Contractor annually for one additional one-year period. The current contract covers fiscal year July 1, 2006 through June 30, 2007. The AAA retains the right to use the competitive request for proposal process at the end of any one-year period if the Contractor's performance and service quality are unacceptable as determined by the AAA.
- D. This Agreement is subject to the availability of funds intended for the project.
- E. Should the Contractor begin work in advance of receiving notice that the agreement is approved, that work may be considered as having been done at the Contractor's risk as a mere volunteer and Contractor may go unpaid.



ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS

A. General Assurances. The Contractor shall assure that the following conditions are met:

1. An individual's receipt of services under the In-Home Supportive Services Program shall not be the sole cause for denial of any services provided by the AAA or its contractors.
2. Services shall not be denied to any Title III or Title VII client that does not contribute toward the cost of the services received.
3. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive.
4. Donation letters sent to clients for Title III and Title VII services shall stipulate that contributions are voluntary and not required to receive service.
5. Donation letters may not resemble a bill or a statement. [OAA §315(b)]
6. Individual client's donations shall not be tracked by accounts receivable. [OAA §315(b)(4)(C)]
7. The Contractor shall participate in the preparation and implementation of a disaster plan that ensures provision of critical services to meet the emergency needs of consumers they are charged to serve during man-made, or natural disasters such as earthquakes or floods. This plan shall be coordinated with the overall County Office of Emergency Services Plan and shall conform to any statewide requirements issued by the Stanislaus County Area Agency on Aging (AAA), the California Department of Aging (CDA), or any other appropriate federal agency.

B. Assurances Specific to the Ombudsman Program:

The Contractor shall assure the following:

1. Representatives of the Ombudsman Program and members of their immediate family shall be free of conflicts of interest and not stand to gain financially through the following:
  - a. Remuneration (in cash or in kind) received directly or indirectly under a compensation arrangement with a long-term care facility. [OAA 712(f)]
  - b. An action or potential action brought on behalf of individuals the Program serves. [OAA 712(a)(5)((C)(ii)].

**ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)**

2. Representatives of the Ombudsman Program shall have access to long-term care facility residents and their medical and social records, with documentation of consent in accordance to section (3)(a), between the hours of 7:00 a.m. and 10:00 p.m. seven days a week [OAA 712(b)(1); WIC 9722 and 9724; CCR 8020(a)]. Authorization is required by the State Ombudsman for entry outside of these hours and for access to resident records when a legal guardian refuses to give permission and there is reason to believe the guardian is not acting in the best interests of the resident [OAA 712(b)(1)(B)(ii); WIC 9724(c and d); CCR 8020(b)].
3. Representatives of the Ombudsman Program shall not carry out the responsibilities of the Program until the State Ombudsman accepts them for certification [OAA 712(h)(5)(B)].
4. All records and files maintained by the local Ombudsman Program relating to any complaint or investigation shall remain confidential unless disclosure is authorized pursuant to OAA 705(a)(6)(C); OAA 712(d)(2) and W&I 9725.
5. The Ombudsman Program shall enter into a memorandum of understanding with the Legal Services Provider (LSP) which will address conflict of interest, provision of legal advice, procedures for referral, and other technical assistance. The LSP may assist the State in providing legal representation to the Program when an Ombudsman Representative has been subpoenaed or in a suit or other legal action threatened or brought against the performance of the official duties of the Ombudsman Representative [OAA 712(h)(7); WIC 9717(c); Statewide Standards for Legal Assistance in California].
6. Each Ombudsman Program shall maintain a separate budget. The Local Ombudsman Coordinator shall be responsible for managing the day-to-day operation of the Program, develop or participate in budget preparation, and be informed of budget allocations by the Contractor specific to the Ombudsman Program.
7. Representatives of the Ombudsman Program shall conduct interviews / investigations in a confidential manner and the Program shall have office space and telecommunications that protect the confidentiality of all complaint-related communications and records. [OAA 705(a)(6)(C), WIC 9725, WIC 25633(b)(2)(B)].
8. Each Ombudsman Program shall have information systems sufficient to run State-approved database systems and to receive and send confidential e-mail messages to and from the AAA. [OAA 712(C); WIC 9716].

ARTICLE I. ASSURANCES SPECIFIC TO TITLE III, TITLE VII, AND COMMUNITY-BASED SERVICES PROGRAMS (Continued)

C. Assurances Specific to Legal Service Providers (LSPs) in accordance with OAA 731.

The Contractor shall assure that the following conditions are met:

1. LSPs will coordinate with state-designated providers of Long-Term Care Ombudsman services by developing and executing a memorandum of understanding which will address conflict of interest, provision of legal advice, procedures for referral and other technical assistance.
2. LSPs may provide direct legal assistance to residents of the long-term care facilities where the clients are otherwise eligible and services are appropriate.
3. Where both legal and ombudsman services are provided by the same agency, providers must develop and follow policies and procedures to protect the integrity, resources, and confidentiality of both programs.
4. LSPs may assist the state in providing legal representation to the ombudsman program when an ombudsman or the program is named as a party or witness, in a subpoena, civil suit or other legal action challenging the performance of the official duties of the ombudsman.
5. LSPs are to coordinate with the local Legal Services Corporation (LSC) program, if the provider is not an LSC-funded program.
6. LSPs are to coordinate with the network of other service providers, including but not limited to, other LSPs, LTC ombudsman, HICAP, senior information and assistance, Adult Protective Services, law enforcement, case management services and focal points.
7. LSPs are to coordinate legal assistance activities with the statewide Hotline and private Bar, including groups within the private Bar furnishing services to older individuals on a pro bono or reduced fee basis.
8. LSPs are to use the Uniform Reporting System developed by the Department in December 2007 to collect data on legal services provided.
9. Waiver of this section of the contract may be obtained from the Department pursuant to Exhibit D, Article XV., of this Agreement entitled, "Revisions, Waivers, or Modification."

ARTICLE II. REPORTING PROVISIONS

- A. The Contractor shall submit program performance reports in accordance with

ARTICLE II. REPORTING PROVISIONS (Continued)

AAA requirements to the Stanislaus County Area Agency on Aging, 121 Downey Avenue, Suite 102, Modesto, California, 95354.

- B. The Contractor shall assure that all data submitted is timely, complete, accurate, and verifiable using the AAA approved reporting procedures.
- C. The Contractor shall have written reporting procedures specific to each program which include:
  - 1. Collection and reporting of program data for the AAA;
  - 2. Ensuring accuracy of data from the Contractor intake/assessment process through reporting to the AAA;
  - 3. Verification of data prior to submission to the AAA;
  - 4. Correction procedures; and
  - 5. A method for collecting and reporting estimated unduplicated client counts (if applicable) and demographics for each non-registered service, total non-registered services, and total for all services (registered and non-registered).
- D. Contractor shall train and orient staff regarding program data collection and reporting requirements.
- E. Reporting provisions specific to Title III B, III C, III D:
  - 1. The Contractor must submit program data reports electronically to the AAA, according to the frequency listed:
    - a. Service Units Report, monthly and quarterly
    - b. Detailed Client Profile, annually  
(Homemaker Services, and Home-Delivered Meals Programs)
    - c. Summary Client Profile, annually (includes estimates for ethnicity, rural, and poverty information)  
(Congregate Meals, Assisted Transportation, Legal Services, and Healthy Aging Association Programs)
    - d. Unduplicated Client Count, annually
  - 2. Quarterly reports are due October 31, January 31, April 30, and July 31. Annual reports are due August 30. For late reports, the Contractor shall submit a written explanation to the AAA by the 15<sup>th</sup> of the following month. This written explanation shall include the reasons for the delay and the date the report will be submitted.

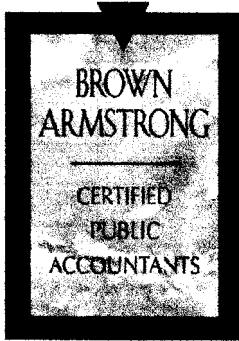
ARTICLE II. REPORTING PROVISIONS (Continued)

F. Reporting provisions specific to Community-Based Programs (Paper Reports):

1. The Contractor must submit program data reports to the AAA, according to the specific program requirements and to the frequency listed:
  - a. Adult Day Care Resource Center (ADCRC): Monthly Service Unit Report (CBSP 101), and Annual Summary Client Profile (CBSP 102B) paper report (may be submitted by e-mail).
  - b. BROWN BAG: Quarterly submission of batched monthly Activity Reports (CDA 5). Paper report.

G. Reporting Provisions Specific to the Ombudsman Program:

1. The Contractor shall take the following actions:
  - a. Submit quarterly/annual National Ombudsman Reporting System (NORS)/AoA reports to the Office of the State Long-Term Care Ombudsman (OSLTCO) by the dates specified below:
    - Quarterly NORS reports are due to CDA October 31, January 31, April 30, and July 31.
    - Annual AoA reports shall be due to CDA by August 30<sup>th</sup>.
  - b. NORS data must be timely, complete, accurate, and verifiable. For any reports 30 days or more in arrears of the due date, the Contractor shall immediately provide a written explanation to the OSLTCO. This written explanation shall include the reasons for the delay and the date the report will be submitted, the date being contingent on agreement of that date by the OSLTCO.



# BROWN ARMSTRONG

*Certified Public Accountants*

## INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Mrs. Margie Palomino  
County of Stanislaus Department of Aging and Veteran Services

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We have performed the procedures enumerated below, which were agreed to by the County of Stanislaus Department of Aging and Veteran Services (the specified parties), solely to assist you with respect to the accounting records of the Howard Training Center (the Center) for the year ended June 30, 2012. The Center's management is responsible for the Center's accounting records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

- 1) Performed walkthroughs and inquiries of management regarding the Center's monthly fiscal monitoring, including budget monitoring and cash flow analysis, to determine if adequate budgetary controls and monitoring are in place.

**Result and Recommendations:**

There is a process in place at the Center that includes preparing monthly budget reports and fiscal analysis that are submitted to the Finance Committee of the Center every month. The Center's budget preparation and monitoring processes are as follows:

The Center will annualize the prior year balance to get a snapshot of where it stands and put together the budgetary reports. The management team will review the allocation sheets to determine costs are appropriately allocated to the correct department. After the budget is prepared and agreed upon by all the managers, the Center finalizes the budget and submits it to the Finance Committee of the Board of Directors for final approval. The budget for the Title III C-1 Congregate Meals and Title III C-2 Home Delivered Meals programs has to be submitted and approved by the County of Stanislaus Department of Aging and Veteran Services before a service contract can be signed between the Center and the County of Stanislaus Department of Aging and Veteran Services. The budget is then divided by twelve and serves as the basis for the monthly budget figures that will be used as part of the monthly budget to actual reporting. Cash flow analysis is performed as part of the monthly budgeting process.

However, the Center has gone through management turnover and lacked the higher level staffing commitments to fully achieve maximum efficiency and the necessary attention to manage every program (including the Title III C-1 Congregate Meals and Title III C-2 Home Delivered Meals). As a result, the existing budget monitoring and cash flow analysis, as described above, were not working effectively.



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Accounting Oversight Board and  
MEMBER of the American Institute of  
Certified Public Accountants

We recommend the Center improve its fiscal analysis and monitoring to provide better and closer control over its cash flows and financial resources. We also recommend the Center improve its communications with the County of Stanislaus Department of Aging and Veteran Services so that the Center can utilize the County of Stanislaus Department of Aging and Veteran Services' resources to assist them in monitoring the Center's fiscal health and flows of meals served for the Title III C-1 Congregate Meals and Title III C-2 Home-Delivered Meal programs.

**Management's Response (the Center):**

The Center agrees that a lack of communication was evident. In the past years the Center had always served everyone. It was assumed by Center management that we would be able to continue to meet the needs of the community even though the needs were much higher than previous years.

The Center has reorganized and is implementing a new structure to bring greater efficiency to operations. A Director 2 of Operations has been hired to provide upper level management monitoring to all contract operations (including C-1 and C-2). An essential function of this position will be the compliance review monthly of the C-1 and C-2 contracts and current status. The Director 2 begins work on July 23, 2012. The Executive Director has assumed supervision of the senior meal programs and will continue to monitor and supervise these programs.

Additionally, the Area Agency on Aging and the Center have established a daily monitoring system of meals served with monthly goals. C-1 (congregate meals) has a site capacity established for each day the site operates that can be implemented or removed based on the level of use by seniors. This will allow the C-1 program to provide meals throughout the year by controlling the meals served in a responsible manner.

With the assistance and approval of the Area Agency on Aging, the Center has established Priority of Service Levels for seniors receiving home delivered meals. Currently all Priority 1 and Priority 2 seniors are being served. The Center is adding Priority 3 seniors as space is available. The delivery of meals is monitored daily for meals served as the number of meals a senior receives is not always the same. Procedure manuals and staff training are occurring to ensure adequate monitoring and management of delivery is maintained.

The Area Agency on Aging and the Center have established a regular meeting and review process to maintain an appropriate and adequate level of oversight and contract management.

- 2) Performed internal control reviews and test of controls over the Center's cash disbursements (payroll and non-payroll) and cash receipts to determine if there are weaknesses in internal controls and if there are potential risk of fraud and abuse due to lack of effective internal control system in place.

**Result:**

No exceptions were found as a result of applying these procedures.

- 3) Performed the following procedures over the Center's contract compliance relating to its grant funding received from the County of Stanislaus Department of Aging and Veteran Services to determine if the Center is in compliance:
  - a) Ensured the Center's in-kind contributions are not Federally funded.
  - b) Ensured contributions that are properly designated to the Title III C-1 Congregate Meals (Title III C-1) and Title III C-2 Home-Delivered Meal (Title III C-2) programs actually go into those programs.
  - c) Ensured earmarks from local and grant funding are properly used and directed for the Title III C-1 and Title III C-2 meal programs.
  - d) Ensured the amount of frozen meals ordered for the Title III C-2 program correlated to the amount of frozen meals actually delivered.

- e) Ensured raw food costs of the Title III C-1 program are appropriately segregated from the other meal programs of the Center.
- f) Ensured no other program costs and funding are intermingled with those of the Title III C-1 and Title III C-2 programs.
- g) Reviewed cash flows for the year to determine the shortage of cash to continue normal operations.

Result:

No exceptions were found as a result of applying these procedures.

- 4) Performed inquiries and other procedures to ensure the County of Stanislaus Department of Aging and Veteran Services has proper monitoring over the Center and other subrecipients/providers in terms of contract/grant compliance.

Result and Recommendations:

We noted that the County of Stanislaus Department of Aging and Veteran Services performed proper monitoring in accordance with federal and state regulations and terms of the agreement with the Center. The monthly monitoring consists of reviewing Monthly Financial Reports submitted by the Center for both the Title III C-1 and Title III C-2 program as part of the reporting process. Even though it is not part of the County of Stanislaus Department of Aging and Veteran Services' responsibility under federal and state regulations and terms of the agreement with the Center, County of Stanislaus Department of Aging and Veteran Services noticed the Center's over serving of meals issue during the early fiscal year 2012 and alerted the Center. However, there was no further action from both County of Stanislaus Department of Aging and Veteran Services and the Center. The Center has always managed to fill the budget shortfall with local grants and donations received in the prior years. This year, the Center did not receive the local grants and donations (Approximately \$130,000) until late June. We recommend that the County of Stanislaus Department of Aging and Veteran Services take consideration of this trend when they renew contract with the Center this year. They can either increase monthly monitoring or control the meal delivery amount in the contract so that monthly reimbursements for the Center will be evened out each month.

Management's Response (the Department of Aging and Veteran Services):

The County of Stanislaus Department of Aging and Veteran Services (Department) agrees that it followed proper monitoring procedures, in accordance with Older Americans Act regulations, with its sub recipients, including the Howard Training Center (HTC). The Department has a contractual obligation with the California Department of Aging to monitor and audit its sub recipients to ensure compliance with laws, regulations, and the provisions of contracts.

The Department will ensure that all future formal communication with HTC is done in writing, which can include e-mail, and that such written communication will be copied to HTC's Executive Director and the Department's Director. (When the Department alerted HTC early in 2012 of the over serving of meals, the communication was done via a telephone call.) The Department will also hold regular meetings with the Center to communicate any program/contract-related changes, including reasons for significant fluctuations of number of meals served, and to discuss general program operations.

In addition, to ensure HTC does not exceed the contracted amount of meals, thereby creating a funding shortfall before the end of the contract period, the Department will include a fixed amount of monthly meals-to-be-served/reimbursed on next fiscal year's contract. On a monthly basis, the Department will only reimburse HTC for meals served, as long as the number does not exceed the monthly contracted number of meals. (The meals must comply with federal and state dietary guidelines as stated in the contract.) Any meals served by HTC in excess of the contracted monthly number will become the responsibility of HTC.



To ensure that the Board of Supervisors, Chief Executive Office, and the Public are aware of the current status of this vital program to our seniors, on a regular basis, the Department will provide a written report to the Stanislaus County Board of Supervisors and the Chief Executive Office.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the County of Stanislaus Department of Aging and Veteran Services and is not intended to be, and should not be, used by anyone other than those specified parties.

BROWN ARMSTRONG  
ACCOUNTANCY CORPORATION

*Brown Armstrong  
Accountancy Corporation*

Bakersfield, California  
July 17, 2012



# **Senior Meals Programs Update**

**Ageing and Veteran Services**

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- **The California Department of Aging (CDA) contracts with Area Agency on Aging to provide Older Americans Act programs for senior citizens in Stanislaus County through grant agreements with local non-profit providers.**
- **The Area Agency on Aging is responsible to provide guidance, oversight, monitoring and technical assistance to contract service providers.**

- On May 22, 2012 the Board of Supervisors received a report on the status of the Senior Meals programs.
- As a result of a lack of oversight, a reduction in meals served to seniors occurred as follows:
  - Congregate meals sites reduced the number of meals from an average of 5,550 per month to a low of 3,985 in June.
  - Home Delivered meals were reduced from an average of 14,000 per month to a low of 3,774 in June.

- Due to \$145,000 in community donations, the program was able to continue to serve meals through the end of the year at this reduced level.
- On May 22, 2012, this Board directed staff to evaluate existing processes to find alternative measures to improve the efficiency and accountability of the program.

Since that time, the Agency has worked closely with the CEO's office, County Counsel, and Howard Training Center (HTC) on the following:

- Engaged the independent audit firm of Brown Armstrong to conduct an internal audit to review the internal fiscal controls of HTC and the contract monitoring process of the AAA.

- Entered into a three month contract extension with HTC to allow time to conduct the independent audit.
- Evaluated the Senior Meals Programs to look at areas that needed improvement, (contract/program compliance, funding/donations available, program eligibility, etc.)

**Purpose of the Audit was twofold:**

- 1. Review the internal controls of HTC, including:**
  - fiscal/budgetary monitoring**
  - cash flow analysis**
  - cash disbursements/receipts  
(primarily to identify risk of fraud/abuse)**
  - ensure money received from outside sources, including AAA's, that is earmarked for the Meals Programs was spent appropriately**



**Purpose of the Audit was twofold:**

- 2. To ensure the monitoring process the AAA utilizes when monitoring its service providers was appropriate and met federal/state regulations.**

## **Audit findings concluded:**

- **HTC's has "gone through management turnover and lacked the higher level staffing commitments to fully achieve maximum efficiency and the necessary attention to manage every program... resulting in existing budget monitoring and cash flow analysis not working effectively."**

## **Audit findings concluded:**

- **A recommendation that HTC improve its fiscal analysis and monitoring to have better and closer control over its cash flow and financial resources.**
- **A recommendation that HTC improve its communication with the AAA.**

## **Audit findings of the AAA:**

- **AAA performed proper monitoring in accordance with Federal/State regulations.**
- **Lack of follow-up with HTC resulted in HTC over-serving meals which created a funding shortfall prior to the end of the Fiscal Year.**
- **Audit recommended that the AAA controls, on a monthly basis, the amount of meals reimbursed to HTC.**

**As a result, the following actions have been implemented:**

- **HTC has reorganized its management staff and assigned Senior Meals Programs Contract Compliance issues to a dedicated program manager.**

- Management, Program, and Fiscal staff at the HTC and AAA will meet on a monthly basis, or more often as needed, to more timely address all Senior Meals Program issues.
- HTC and AAA program/fiscal staff will review on a monthly basis the fiscal/data program reports that are submitted to CDA.

## Lessons Learned and Next Steps:

- AAA must ensure the stability of the program by proper contract monitoring and oversight through increased communication with the service provider and the community we serve.
- Past reliance on private donations to fill funding gaps for this program does not ensure the necessary program stability.

- **HTC and AAA must ensure a consistent level of meals are served for each 12 month period by using available State and Federal funds to serve a minimum number of meals each month.**



Staff is recommending:

- A nine month contract renewal, for the remainder of the 2012-13 Fiscal Year with Howard Training Center with new provisions to ensure the provider fulfills contractual obligations for the entire contract period. Provisions to include limited reimbursement for monthly meals to ensure HTC stays within the budgeted funding.

## Provisions include:

- HTC will be reimbursed for 4,000 Congregate Meals per month, three times a week at 14 existing sites.
- HTC will be reimbursed for 11,300 meals per month to Priority I and II homebound seniors. These seniors will receive five meals a week delivered at a minimum twice a week.

<b>Month</b>	<b>March 2012</b>	<b>April 2012</b>	<b>May 2012</b>	<b>June 2012</b>	<b>July 2012</b>	<b>August 2012</b>
<b>Congregate</b>	<b>5,550</b>	<b>5,550</b>	<b>5,420</b>	<b>3,985</b>	<b>3,594</b>	<b>3,816</b>
<b>Home-Delivered</b>	<b>14,000</b>	<b>14,000</b>	<b>7,432</b>	<b>3,774</b>	<b>11,543</b>	<b>11,496</b>

- **Any additional money raised through grants, community or participant donations will be used to provide additional meals to homebound seniors.**





**Staff is also recommending:**

**The Board approve the issuance of a Request for Proposal (RFP) for Fiscal Year 2013-2014, for a four year period.**

## **Staff Recommendations:**

- 1. Authorize the Director of the Department of Aging and Veterans Services (Area Agency on Aging) to sign the agreement and any subsequent amendments for Older Americans Act (OAA) Congregate Meals and Home-Delivered Meals Programs for October 1, 2012 through June 30, 2013.**

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2. Accept the results of the Agreed-Upon Procedures (audit) conducted by Brown Armstrong, Certified Public Accountants, of the Howard Training Center and the Area Agency on Aging (AAA).
  3. Approval to issue a Request For Proposal (RFP) for OAA Title III C-1 Congregate Meals and Title III C-2 Home- Delivered Meals Programs for Fiscal Year 2013-2014.

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4. **Authorize the General Services Agency Purchasing Agent to issue a notice inviting proposals on January 7, 2013 for OAA Title III C-1 Congregate Meals and Title III C-2 Home-Delivered Meals Programs for 2013-2014, beginning July 1, 2013.**
  5. **Authorize to accept and open Proposals on February 21, 2013 immediately after 2:30 pm, and return to the Board to recommend an award.**



# Questions