

Aug. 12. 2008 12:27PM

No. 0956 P. 1

City and County of San Francisco
Office of Contract Administration
Purchasing
1 Dr. Carlton B. Goodlett Place, Room 430
San Francisco, CA 94102 - 4685



CONTRACT MODIFICATION NO. 7

Indefinite Quantity

Elite Reprographics of the Bay Area
363 Sixth Street
San Francisco, CA 94103-4718
Attn: Max Rafie

Date August 5, 2008
Contract Proposal No. 68531
Estimated Amount: Indefinite

The City and County of San Francisco does hereby accept your offer to extend the contract and furnish the Services indicated below. Such Services are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

CONTRACT EXTENSION

For furnishing and delivering Legal Photocopy Service, Subpbena Preparation and Serving.

By mutual agreement, the contract is extended an additional seven (7) months for the term July 1, 2008 through January 31, 2009.

All other prices, terms and conditions remain the same.

Acknowledge receipt and acceptance of this Contract Modification in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA, 94102-4685. DUPLICATE COPY IS FOR YOUR FILES.

Paul Jensen 8-11-08
As the duly appointed Purchaser of the City and County of San Francisco Date

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor ELITE REPROGRAPHICS
By *Rafie* VP
Signature Title
Date Aug 12th 2008

8/5/08-DPR/cho



City and County of San Francisco
Office of Contract Administration
Purchasing
1 Dr. Carlton B. Goodlett Place, Room 430
San Francisco, CA 94102 - 4685

CONTRACT MODIFICATION NO. 6

Indefinite Quantity

Elite Reprographics of the Bay Area
363 Sixth Street
San Francisco, CA 94103-4718
Attn: Max Rafle

Date December 21, 2007
Contract Proposal No. 68531
Estimated Amount: Indefinite

The City and County of San Francisco does hereby accept your offer to extend the contract and furnish the Services indicated below. Such Services are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

CONTRACT EXTENSION

For furnishing and delivering **Legal Photocopy Service, Subpoena Preparation and Serving.**

By mutual agreement, the contract is extended an additional **seven (7) months** for the term **November 1, 2007 through June 30, 2008.**

The following Conditions have been added to Contract 68531 (See Attachment A).

- **Food Service Waste Reduction Requirement**

All other prices, terms and conditions remain the same.

Acknowledge receipt and acceptance of this Contract Modification in the space below. Return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA, 94102-4685. **DUPLICATE COPY IS FOR YOUR FILES.**

Bill Jones 2-26-08
As the duly appointed Purchaser Date
of the City and County of San Francisco

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

ELITE REPROGRAPHICS
Contractor
By *[Signature]* V.P. of sales
Signature Title
Date Feb 25th 2008

Attachment A
Contract No 68531
Contract Modification No. 6
Elite Reprographics of the Bay Area
December 21, 2007

• **Food Service Waste Reduction Requirements**

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.



CONTRACT ACCEPTANCE

Indefinite Quantity

Elite Reprographics of the Bay Area
363 Sixth Street
San Francisco, CA 94103-4718
Attn: Shahla Davoudi

Date November 17, 2005

Contract Proposal No. 68531

Estimated Amount: Indefinite

The City and County of San Francisco does hereby accept your offer to modify the prices and furnish the articles indicated below. Such Articles are to be delivered in the manner and the form and at the times and prices set forth in the above numbered Contract Bid Proposal, but only after receipt of order properly certified by the Controller of the City and County of San Francisco.

CONTRACT MODIFICATION NO. 5

For furnishing and delivering **Legal Photocopy Service, Subpoena Preparation and Serving.**

By mutual agreement, the contract is extended for an additional twenty-four (24) months for the term November 1, 2005 through October 31, 2007 and Group D, City Attorney, is removed from this contract.

Contractor's signature below indicates Contractor's agreement to comply with the following requirements in the performance of this contract:

- Nondisclosure of Private Information
- Contract Product/Service Quality Report – Attachment A
- Replace Notification of Limitations on Contributions attached to Modification No. 2, dated July 24, 2003 with Limitations on Contributions.
- Graffiti Removal

All other prices, terms and conditions remain the same.

Acknowledge receipt of this Contract Acceptance in the space below and return to Purchaser, 1 Dr. Carlton B. Goodlett Place, Room 430, San Francisco, CA, 94102-4685. **DUPLICATE COPY IS FOR YOUR FILES.**

As the duly appointed Purchaser of the City and County of San Francisco Date 11/18/05

RECEIPT OF THE ABOVE IS HEREBY ACKNOWLEDGED:

Contractor _____
By Shahla Davoudi Elite Reprographics President
Signature Title
Date 11/29/05

RECEIVED
2005 DE - 1 AM 11:24
PURCHASING DEPARTMENT

Contract 68531 – Modification No. 3

Add the following to General Conditions:

NONDISCLOSURE OF PRIVATE INFORMATION

As of March 5, 2005, Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the “Nondisclosure of Private Information Ordinance”), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Contract as though fully set forth. Capitalized terms used in this section and not defined in this Contract shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to the following:

- A. Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained from the City in the performance of this Contract to any other Subcontractor, person, or other entity, unless one of the following is true:
 - 1) The disclosure is authorized by this Contract;
 - 2) The Contractor received advance written approval from the Contracting Department to disclose the information; or
 - 3) The disclosure is required by law or judicial order.
- B. Any disclosure or use of Private Information authorized by this Contract shall be in accordance with any conditions or restrictions stated in this Contract. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.
- C. Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.
- D. Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Contract, debar Contractor, or bring a false claim action against Contractor.

CONTRACT PRODUCT / SERVICE QUALITY REPORT

The attached report form (Attachment A) will be provided to departments using this Contract. Users of the contract may complete and return these reports at any time during the life of the contract. The purpose of the report is to monitor contractor performance and determine supplier successes or shortcomings. Each report will be sent to the awarded supplier/contractor. They will have an opportunity to respond to the information provided by the department. Quality reports that go unresolved to the satisfaction of the Purchaser may be used as a basis for commencement of or complete contract default proceedings.

RECEIVED
2005-11-17 AM 11:25
PURCHASING DEPARTMENT

GRAFFITI REMOVAL

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty-eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.)

Any failure of Contractor to comply with this section of this Contract shall constitute a default of this Contract.

Replace Notification of Limitations on Contributions with the following:

LIMITATIONS ON CONTRIBUTIONS

Through execution of this Contract, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services or for the furnishing of any material, supplies or equipment to the City, whenever such transaction would require approval by a City elective officer of the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

RECEIVED
2005 DE - 1 AM 11:25
PUBLICATIONS DEPARTMENT



Gavin Newsom
Mayor

Naomi Little
Director and Purchaser

Purchasing

CONTRACT PRODUCT/SERVICE QUALITY REPORT

“ATTACHMENT A”

For Term Contract No. _____

Date: _____

SOURCE OF REPORT:

Date of Quality
Incident: _____

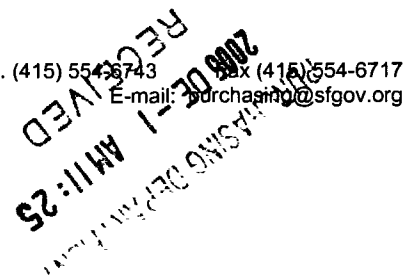
Department & Division: _____

Name: _____

Telephone: _____

This report concerns Contract Item No. _____ and/or Contract Clause No. _____ .

DETAILS: (Describe, to best ability, what is wrong, how and why, circumstances prior to difficulty, description of difficulty, cause, action taken, including disposition, recommendations. Attach copies of supporting documents if appropriate. Continue on separate sheet if necessary.)





Willie Lewis Brown, Jr.
Mayor

Judith A. Blackwell
Director

Purchasing Division

July 24, 2003

CONTRACT MODIFICATIONS

**Legal Photocopy Service, Subpoena Preparation
and Serving**

Contract No. 68531

**Vendor: Elite Reprographics of the Bay Area – Contract Modification No. 4
BPSF00001808, 1810, 1811 and 1813**

**Vendor: The Mitchell Group Copy Service – Contract Modification No. 2
BPSF00001807, 1809, 1812, 1814**

New Term: July 24, 2003 through July 31, 2005

TO ALL USER DEPARTMENTS:

Please be advised that Contract 68531, Legal Photocopy Service, Subpoena Preparation and Serving, has been extended for an additional 24-month term as noted above.

In addition, the following requirements have been added to the terms and conditions of this contract. (See Attachment A):

- First Source Hiring Program
- Prohibition on Political Activity with City Funds
- Preservative-treated Wood Containing Arsenic
- Services Provided by Attorneys
- Notification of Limitations on Contributions

All other terms and conditions remain unchanged.

Please attach this modification notice to your copy of the contract "AWARD".

Sincerely,

Violet Lee-Fong
Purchaser
415.554.6734

VCL/dsh

Attachment A

Warning

Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State Provisions.

City Departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

e. Liquidated Damages

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$2,070 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. Subcontracts

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this section.

PROHIBITION ON POLITICAL ACTIVITY WITH CITY FUNDS

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this contract. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this contract, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. Funds paid to Contractor for services performed hereunder and which were not for a Political Activity, are not subject to the restrictions of San Francisco Administrative Code Chapter 12G.

PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC

As of July 1, 2003, Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 21G is obtained from the Department of Environment under Section 21G.5 of the Administrative Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

SERVICES PROVIDED BY ATTORNEYS

Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

NOTIFICATION OF LIMITATIONS ON CONTRIBUTIONS

This paragraph applies if the contract exceeds \$50,000 over a 12-month period or less and is for: (1) personal services; or (2) the selling or furnishing of any material, supplies or equipment; or (3) any

combination of personal services and the selling or furnishing of any material, supplies or equipment. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 3.700 *et seq.*, and San Francisco Ethics Commission Regulations 3.710(a)-1 – 3.730-1, prohibit the public officials who have discretion to approve and do in fact approve this contract from receiving: (1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; (2) any employment for compensation; or (3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the contract. Public benefit recipients of the contract are defined as: (1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; (2) an individual or entity that is a party to the contract; (3) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time the public benefit is awarded; or (4) an individual who is a trustee, director, partner or officer of the contracting party at the time the public benefit is awarded.

A party to any contract awarded under this solicitation must acknowledge that it understands that any public official who approves this contract may not accept campaign contributions, gifts, or future employment from the Contractor except as provided under the Conduct Code. The contractor must agree to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this contract. Upon request, the contractor must further agree to furnish, before the contract is entered into, such information as any public official approving this contract may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City will agree to provide, before the contract is entered into, a list of public officials who, under the Conduct Code, approve the contract to the contractor. Failure of any public official to abide by the Conduct Code will not constitute a breach by either the contractor or the City of the contract. Neither party to the contract will have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.



Willie Lewis Brown, Jr.
Mayor

Judith A. Blackwell
Director

Purchasing Division

June 23, 2003

CONTRACT MODIFICATION NO. 3
(Revised)

**Legal Photocopy Service, Subpoena Preparation
and Serving**

Contract No. 68531

Vendor: Elite Reprographics of the Bay Area

Blanket Purchase Order Nos.: BPSF00001808, 1810, 1811 and 1813

Warning
Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State Provisions.

City Departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

TO ALL USER DEPARTMENTS:

By mutual agreement, effective July 1, 2002, the following item has been modified:

Item 4 a-d Microfilming copies of records \$0.16 per page
to include one printed hard copy

All other terms, conditions and prices remain unchanged.

Please attach this modification notice to your copy of the contract "AWARD".

Sincerely,

Violet Lee-Fong
For

Violet Lee-Fong
Purchaser
415.554.6734

VCL/dsh



Willie Lewis Brown, Jr.
Mayor

Judith A. Blackwell
Director

Purchasing Division

June 19, 2003

CONTRACT MODIFICATIONS

Legal Photocopy Service, Subpoena Preparation and Serving

Contract No. 68531

Vendor: Elite Reprographics of the Bay Area – Contract Modification No. 2
BPSF00001808, 1810, 1811 and 1813

Vendor: The Mitchell Group Copy Service – Contract Modification No. 1
BPSF00001807, 1809, 1812, 1814

Warning

Do not use any term contracts to purchase goods and/or services when using Federal, State or Special Funds. Term contracts may contain provisions that conflict with Federal or State Provisions.

City Departments must contact their assigned City Attorney for applicable provisions, procedures and relevant fund requirements.

TO ALL USER DEPARTMENTS:

The Health Insurance Portability and Accountability Act (HIPAA) requirements have been added to the terms and conditions. (See attached Exhibit A.)

All other terms and conditions remain unchanged.

Please attach this modification notice to your copy of the contract "AWARD".

Sincerely,

For
Violet Lee-Fong
Purchaser
415.554.6734

VCL/dsh

Exhibit A

Exhibit A

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Exhibit contains requirements set forth in the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191 and the regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws. The City and County of San Francisco, referred to in this agreement as CITY, is the Covered Entity and is referred to below as CE. The CONTRACTOR is the Business Associate, and is referred to below as Associate. The agreement between CITY and CONTRACTOR to which this Addendum is attached is referred to in this Addendum as the Contract.

This HIPAA Business Associate Addendum ("Addendum") supplements and is made a part of the contract ("Contract") by and between Covered Entity ("CE") and Business Associate ("Associate"), and is effective as of April 14, 2003.

RECITALS

A. CE wishes to disclose certain information to Associate pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).

B. CE and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

C. As part of the HIPAA Regulations, the Privacy Rule (defined below) requires CE to enter into a contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.502(e) and 164.504(e) of the Code of Federal Regulations ("CFR") and contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions.

A. **Business Associate** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.

B. **Covered Entity** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.

C. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

Exhibit A

D. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

E. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

F. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164.

G. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including but not limited to, 45 CFR Section 164.501. [45 CFR §§ 160.103 and 164.501]

H. **Protected Information** shall mean PHI provided by CE to Associate or created or received by Associate on CE's behalf.

2. **Obligations of Associate.**

A. **Permitted Uses.** Associate shall not use Protected Information except for the purpose of performing Associate's obligations under the Contract and as permitted under the Contract and Addendum. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule is so used by CE except that Associate may use Protected Information (i) for the proper management and administration of Associate, (ii) to carry out the legal responsibilities of Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of CE. [45 CFR §§ 164.504(e)(2)(i), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)]

B. **Permitted Disclosures.** Associate shall not disclose Protected Information except for the purpose of performing Associate's obligations under the Contract and as permitted under the Contract and Addendum. Further, Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by CE, except that Associate may disclose Protected Information (i) for the proper management and administration of Associate; (ii) to carry out the legal responsibilities of Associate; (iii) as required by law, or (iv) for Data Aggregation purposes for the Health Care Operations of CE.

To the extent that Associate discloses Protected Information to a third party, Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) an agreement from such third party to immediately notify Associate of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge

Exhibit A

of such breach. [45CFR §§ 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

C. **Appropriate Safeguards.** Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract and this Addendum. [45 CFR § 164.504(e)(2)(ii)(B)] Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities.

D. **Reporting of Improper Use or Disclosure.** Associate shall notify the compliance office of CE in writing of any use or disclosure of Protected Information otherwise than as provided for by the Contract and this Addendum within five (5) days of becoming aware of such use or disclosure. [45 CFR § 164.504(e)(2)(ii)(C)]. Such notice shall be sent to: DPH Compliance Office, 2789 Twenty-fifth Street, San Francisco, CA 94110 or can be sent via e-mail to CHN_Hotline@chnsf.org.

E. **Associate's Agents.** Associate shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Associate with respect to such PHI. [45 CFR § 164.504(e)(2)(D)] Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation. (See 45 CFR §§ 164.530(f) and 164.530(e)(1).)

F. **Access to Protected Information.** Associate shall make Protected Information maintained by Associate or its agents or subcontractors in Designated Record Sets, if any, available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.524. [45 CFR § 164.504(e)(2)(ii)(E)]

G. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, if any, Associate or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or subcontractors, Associate must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Associate or its agents or subcontractors shall be the responsibility of CE. [45 CFR § 164.504(e)(2)(ii)(F)]

H. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, Associate and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.528, as determined by CE. Associate agrees to implement a process that allows for

Exhibit A

an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. At a minimum such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Associate or its agents or subcontractors, Associate shall within five (5) days of request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. Associate shall not disclose any Protected Information except as set forth in Sections 2.b of this Addendum. [45 CFR §§ 164.504(e)(2)(ii)(G) and 165.528]

I. **Governmental Access to Records.** Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Associate's compliance with the Privacy Rule. (45 CFR § 164.504(e)(2)(ii)(H)] Associate shall provide to CE a copy of any Protected Information that Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.

J. **Minimum Necessary.** Associate (and its agents or subcontractors) shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [45 CFR § 164.514(d)(3)]

K. **Data Ownership.** Associate acknowledges that Associate has no ownership rights with respect to the Protected Information.

L. **Retention of Protected Information.** Notwithstanding Section 3.c of this Addendum, Associate and its subcontractors or agents shall retain all Protected Information throughout the term of the Contract and shall continue to maintain the information required under Section 2.h of this Addendum for a period of six (6) years after termination of the Contract. (See 45 CFR §§ 164.530(j)(2) and 164.526(d).)

M. **Notification of Breach.** During the term of this Contract, Associate shall notify the Compliance Office of the CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which Associate becomes aware and / or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

Notification can occur through use of e-mail or by telephone. The Compliance Office E-mail address is CHN_Hotline@chnsf.org and the telephone numbers are: **(415) 642-5790 and (415) 252-3078.**

Exhibit A

N. Audits, Inspections and Enforcement Involving the Use of Protected Information. Within ten (10) days of a written request by CE, Associate and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether Associate has complied with this Addendum; provided, however, that (i) Associate and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) CE shall protect the confidentiality of all confidential and proprietary information of Associate to which CE has access during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Associate. The fact that CE inspects, or fails to inspect, or has the right to inspect, Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does CE's failure to detect constitute acceptance of such practice or a waiver of CE's enforcement rights under this Contract.

3. Termination.

A. Material Breach. A breach by Associate of any material provision of this Addendum, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract by CE pursuant to Section 20 of the Contract. [45CFR § 164.504(e)(2)(iii)]

B. Judicial or Administrative Proceedings. CE may terminate this Contract, effective immediately, if (i) Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the Associate has violated any standard or requirement of HIPAA, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

C. Effect of Termination. Upon termination of this Contract for any reason, Associate shall, at the option of CE, return or destroy all Protected Information that Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, Associate shall continue to extend the protections of Section 2 of this Addendum to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 CFR § 164.504(e)(ii)(2)(I)] If CE elects destruction of the PHI, Associate shall certify in writing to CE that such PHI has been destroyed.

4. Limitation on Liability. Any limitations on liability set forth in the Contract shall not apply to the obligations set forth herein.

5. Disclaimer. CE makes no warranty or representation that compliance by Associate with this Addendum, HIPAA or the HIPAA Regulations will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.

Exhibit A

- 6. Certification.** To the extent that CE determines that such examination is necessary to comply with CE's legal obligations pursuant to HIPAA relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense examine Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which Associate's security safeguards comply with HIPAA, the HIPAA Regulations or this Addendum.
- 7. Amendment.** The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the Privacy Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from Associate that Associate will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the Privacy Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) Associate does not promptly enter into negotiations to amend this Addendum when requested by CE pursuant to this Section or (ii) Associate does not enter into an amendment to this Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the Privacy Rule.
- 8. Assistance in Litigation or Administrative Proceedings.** Associate shall make itself, and any subcontractors, employees or agents assisting Associate in the performance of its obligations under this Addendum, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where Associate or its subcontractor, employee or agent is a named adverse party.
- 9. No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than CE, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- 10. Effect on Contract.** Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect.
- 11. Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.