

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



812

FROM: Community Health Agency

SUBMITTAL DATE:
January 26, 2012

SUBJECT: Ratify the Memorandum of Understanding (MOU) with Riverside Transit Agency (RTA) for submitting Medi-Cal Administrative (MAA) claims to the California Department of Health Care Services (DHCS) allowable for Federal Financial Participation (FFP)

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Ratify the Memorandum of Understanding (MOU) between Riverside Transit Agency (RTA) and the County of Riverside (COUNTY) Community Health Agency for the period of January 1, 2012 through December 31, 2015, as it pertains to Medi-Cal Administrative Activities (MAA) allowable for Federal Financial Participation (FFP); and
- 2) Authorize the Chairperson to execute three (3) original copies of the MOU on behalf of the County of Riverside.

BACKGROUND:

On July 21, 1992, the Board of Supervisors authorized the Health Service Agency Director to coordinate SB-910 implementation activities for the County of Riverside, of which Medi-Cal Administrative Activities (MAA) is a part. This MOU between RTA and COUNTY will allow the COUNTY to administer the MAA Program for RTA allowable for FFP.

Susan D. Harrington

Susan Harrington, Director, Community Health Agency
Interim

SH;im;nd

FINANCIAL DATA	Current F.Y. Total Cost:	\$50,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	11/12

SOURCE OF FUNDS: 100% funded by Riverside Transit Agency	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Debra Cournoyer*
Debra Cournoyer

County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: *Samuel Wong* 2/6/12
 SAMUEL WONG
 Departmental Concurrence
 DATE: 2/6/12
 COUNTY COUNSEL
 BY: *Paul Angulo* 2/6/12
 L. R. KINNIS

Dept't Recomm.:
Per Exec. Ofc.:

COUNTY OF RIVERSIDE
COMMUNITY HEALTH AGENCY

FOR COUNTY USE ONLY



DEPT/BRANCH/PROGRAM: CHA/Fiscal Services Division		CONTRACT NO.: 12-044		RFP NO.: -----
FUND: 65720	DEPARTMENT ID 4200100000	PROJECT-GRANT -----	PROGRAM: -----	CLASS/LOCATION 6572-
ACCOUNT: 201200		CONTRACT AMOUNT: \$3,000,000		
PERIOD OF PERFORMANCE: January 1, 2012 through December 31, 2015				
COUNTY CONTACT: Robert Wisdom (951) 358-5079		CONTRACTOR REPRESENTATIVE: Virginia Werly (951) 565-5184		
PROGRAM NAME Medi-Cal Administrative Activities (MAA) Program				

This Memorandum of Understanding (MOU) is made and entered into by and between the County of Riverside, a political subdivision of the State of California, through its Community Health Agency, hereinafter referred to as COUNTY, and

Riverside Transit Agency

hereinafter referred to as RTA.

WITNESSETH:

WHEREAS, COUNTY is a single County agency responsible for submitting Medi-Cal Administrative claims to the California Department of Health Care Services (DHCS); and

WHEREAS, the RTA is desirous to participate in the MAA program.

NOW THEREFORE in consideration of the mutual promises, covenants and conditions hereinafter contained, the Parties hereto mutually agree as provided on pages 1 through 3, Exhibit A provided on pages 4 through 5, Exhibit B provided on page 6, and Attachment A, consisting of 27 pages, attached hereto and incorporated herein.

RTA

By Larry Rubio

Larry Rubio
Print Name

Date 1-30-2012

COUNTY

By _____
John Tavaglione, Chairman
Board of Supervisors

Date _____

ATTEST: Kecia Harper-Ihem, Clerk

By _____
FOR APPROVED COUNTY COUNSEL
BY Neil R. Kipnis DATE 2/1/12

1. STATEMENT OF PURPOSE:

1 **1.1** This Memorandum of Understanding (MOU) is made and entered into between
2 RTA and COUNTY to assure compliance with the State of California and Federal requirements
3 under the State of California Department of Health Care Services (DHCS) Contract #11-88018
4 and subsequent amendments, Title XIX Medi-Cal Claiming, between the DHCS and the County
5 of Riverside Community Health Agency.

2. STATEMENT OF NEED:

6 **2.1** The purpose of this MOU is to ensure a more efficient administration of the State
7 Medi-Cal Plan. The provision of Medi-Cal Administration by the RTA has been determined to
8 be an effective method of assuring the availability, accessibility, coordination, and appropriate
9 utilization of required health care resources to Medi-Cal eligible individuals served by the RTA.

10 **2.2** Medi-Cal administration is the necessary administrative cost incurred in providing
11 services to Medi-Cal eligible individuals as defined in 42CFR 435.1001(a).

3. COMPENSATION:

12 **3.1** In consideration of services provided by COUNTY, RTA will pay COUNTY an
13 estimated annual administrative fee. The administrative fee is subject to Exhibit B,
14 CALCULATIONS OF ANNUAL ADMINISTRATIVE FEE.

4. AVAILABILITY OF FUNDING:

15 **4.1** It is mutually agreed and understood that the availability and effectiveness of this
16 MOU is contingent upon the availability of Federal financial participation.

5. TERM:

17 **5.1** The term of this MOU shall be from January 1, 2012 through December 31,
18 2015, except that either party to this MOU may terminate its obligations hereunder as set forth
19 in Section 11, TERMINATION. This MOU may be renewed through the amendment process.
20

6. HOLD HARMLESS/INDEMNIFICATION:

21 **6.1** RTA shall indemnify and hold harmless the County of Riverside, its Agencies,
22 their respective directors, officers, Board of Supervisors, elected and appointed officials,
23 employees, agents and representatives (the "COUNTY's" Indemnified Parties") from any
24 liability whatsoever, including but not limited to, property damage, bodily injury, or death based
25 or asserted upon any services of RTA, its officers, employees, subcontractors, agents or
26 representatives arising out of or in any way relating to this MOU and RTA shall defend at its sole
27 expense and pay all costs and fees, including but not limited to, attorney fees, cost of
28 investigation, defense and settlements or awards, on behalf of the COUNTY's Indemnified
Parties in any claim or action based upon such liability.

6.2 COUNTY shall indemnify and hold harmless the RTA, its officers, employees,
subcontractors, agents or representatives (the "RTA's" Indemnified Parties") from any liability
whatsoever, including but not limited to, property damage, bodily injury, or death based or

1 asserted upon any services of COUNTY, its Agencies, their representative directors, officers, 2-044
2 Board of Supervisors, elected and appointed officials, employees, agents and representatives
3 arising out of or in any way relating to this MOU and COUNTY shall defend at its sole expense
4 and pay all costs and fees, including but not limited to, attorney fees, cost of investigation,
5 defense and settlements or awards, on behalf of the RTA's Indemnified Parties in any claim or
6 action based upon such liability.

7 **6.3** With respect to any action or claim subject to indemnification herein, the
8 indemnifying party shall, at their sole cost, have the right to use counsel of their choice and shall
9 have the right to adjust, settle, or compromise any such action or claim without the prior consent
10 the indemnified party; provided, however, that any such adjustment, settlement or compromise in
11 no manner whatsoever limits or circumscribes the indemnifying party's obligation to indemnify
12 as set forth herein.

13 **6.4** Indemnifying party's obligation hereunder shall be satisfied when they have
14 provided the indemnified party the appropriate form of dismissal relieving the indemnified party
15 from any liability for the action or claim involved.

16 **6.5** The specified insurance limits required in this MOU shall in no way limit or
17 circumscribe the indemnifying party's obligation to indemnify as set forth herein.

18 **6.6** In the event there is conflict between this clause and California Civil Code
19 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such
20 interpretation shall not relieve the indemnifying party's obligation to provide indemnification to
21 the fullest extent allowed by law.

22 **7. INDEPENDENT CAPACITY:**

23 **7.1** Each party shall act in an independent capacity and not as an officer, employee or
24 agent of the other.

25 **8. RECORDS:**

26 **8.1** RTA agrees that sufficient records, files and documentation shall be maintained
27 concerning the performance of this MOU, and shall be accessible to COUNTY for review or
28 audit upon reasonable notification to RTA.

9. CONFIDENTIALITY:

9.1. To the maximum extent permitted by law, both Parties hereto shall maintain the
confidentiality of any and all patient records and information accessed or processed in
accordance with the terms and intent of this MOU, including protection of names and other
identifying information from unauthorized disclosure.

9.2 Both Parties hereto shall not disclose, except as specifically permitted by this
MOU, or as authorized by the patient(s), or as otherwise required by law, any oral or
written communication, information, or effort of cooperation between COUNTY and RTA, or
any other party.

9.3 Both Parties hereto shall observe all Federal, State and County
regulations concerning confidentiality of records including but not limited to, the

1 Health Insurance Portability and Accountability Act (HIPPA) of 1996, concerning the
2 security and confidentiality of patient record.

12-044

3 **10. FORCE MAJEURE:**

4 **10.1** Neither Party shall be liable nor deemed to be in default for any delay or failure in
5 performance under this MOU or other interruption of service or employment deemed resulting,
6 directly or indirectly, from acts of God.

7 **11. TERMINATION:**

8 **11.1** This MOU may be terminated by either party by giving thirty (30) days
9 written notice of intention to terminate. RTA further understands and agrees that failure of RTA
10 to follow the conditions of this MOU will result in exclusion of the RTA from the program upon
11 the giving by COUNTY of thirty (30) days written notice.

12 **12. ASSIGNMENT:**

13 **12.1** This MOU shall not be assigned by RTA either in whole or in part, without prior
14 written consent of COUNTY.

15 **13. ALTERATION:**

16 **13.1** No alteration or variation of the terms of this MOU shall be valid unless and until
17 made in writing and signed by the parties hereto, and no oral understanding or agreement not
18 incorporated herein, shall be binding on any of the parties hereto.

19 **14. NOTICES:**

20 **14.1** All correspondence and notices required or contemplated by this MOU shall be
21 delivered to the respective parties at the addresses set forth below and are deemed submitted one
22 day after their deposit in the United States Mail, postage prepaid:

23 **COUNTY:**

24 Community Health Agency
25 ISS Procurement & Contracts Administration
26 4065 County Circle Drive
27 Riverside, CA 92503

28 **RTA:**

Riverside Transit Agency
1825 Third Street
Riverside, CA 92507
Attention: V. Rouzaud, Chief Procurement & Logistics Officer

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EXHIBIT A
SCOPE OF WORK

1
2
3 **1. RESPONSIBILITIES OF RTA:** To meet specific needs of this MOU, as described in
4 Section 2, STATEMENT OF NEED, above, the RTA will perform the following activities:

5 **1.1** Provide, as requested by COUNTY, the information necessary to request federal
6 funds available under Medi-Cal Administrative claiming.

7 **1.2** Provide the COUNTY with completed MAA invoices and expenditure
8 information to include in its summary MAA claim no later than fourteen (14) months after the
9 end of the quarter for which the claim was submitted. This information shall be provided in a
10 standardized Detailed Invoice as provided by the DHCS. Invoices shall be submitted quarterly,
11 in triplicate, addressed to:

12
13 Robert Wisdom
14 County of Riverside Community Health Agency
15 Fiscal Services
16 4065 County Circle Drive, Room 403
17 Riverside, CA 92503

18 **1.3** Assure that the determination of costs under this MOU is in accordance with
19 Office of Management and Budget (OMB) Circular A-87, as amended, and other applicable
20 requirements of Federal law.

21 **1.4** Maintain all necessary information to support the claim (as described in the
22 County Based MAA Manual) and to provide the Centers for Medicare and Medicaid Services
23 (CMS), or DHCS, with any necessary data in the event of an audit for a minimum of three (3)
24 years after the end of the quarter in which the expenditures were incurred for MAA and, if an
25 audit is in progress, all records relevant to the audit shall be retained until the completion of
26 the audit or the final resolution of all audit exceptions, deferrals and/or disallowances, whichever
27 is later.

28 **1.5** The RTA will have the opportunity to respond to any reimbursement
discrepancies/adjustments.

1.6 The RTA will have the opportunity to respond to any audit exceptions by State or
Federal audit agencies that directly relate to the services performed under this MOU and, where
appropriate, shall use its best efforts to comply with audit results.

1.7 Certify to the DHCS and COUNTY the provisions of the non-federal share of the
costs of Medi-Cal Administration.

1.8 Return to the COUNTY any federal funds, which are deferred and/or ultimately
disallowed, by DHCS or CMS, arising from the administrative claim submitted by COUNTY on
behalf of the RTA.

1.9 The RTA will reimburse COUNTY for an annual administrative fee charged by
COUNTY for administering the MAA Program.

1.10 Both parties to this MOU recognize that the RTA is liable only for Federal
audit exceptions relating to Medi-Cal Administration that is the object of this MOU,

and has no liability for any other agency, which may enter into a similar MOU with COUNTY for Medi-Cal Administration.

1.11 Designate a staff person to act as liaison with COUNTY for issues concerning this MOU.

1.12 Make all MAA records available to COUNTY auditor and use its best efforts to comply with audit results in a timely manner.

1.13 Comply with all applicable elements of the agreement #11-88018 and subsequent amendments between COUNTY and DHCS incorporated and referenced in this MOU as Attachment A.

2. RESPONSIBILITIES OF COUNTY:

2.1 Process RTA claims for reimbursement of the allowable actual costs of performing MAA necessary for the proper and efficient administration of the Medi-Cal Program.

2.2 Provide RTA or their designated MAA contractor with a standardized format for the Detailed Invoice and any subsequent updates as provided by DHCS.

2.3 Review and process RTA's MAA Invoice claims. Work with RTA or their designated MAA contractor to correct and resubmit MAA invoices to DHCS.

2.4 Make available to RTA or MAA contractor information provided by DHCS on training and on proper MAA to be claimed, and MAA invoicing procedures.

2.5 Reimburse RTA their federal share of actual costs for Medi-Cal Administration outlined in the MOU.

2.6 Invoice RTA for their annual administrative fee (flat fee) charged by COUNTY for administering the MAA Program. The annual administrative fee is subject to change each year. (refer to Exhibit B for calculation of annual administrative fee).

2.7 Designate a staff person to act as liaison with RTA and their designated MAA contractor.

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Calculation of Annual Administrative Fee

The annual administrative flat fee charged by COUNTY for administering the MAA Program will be calculated based on the following methodology:

In consideration of services provided by COUNTY, RTA will pay COUNTY an estimate administrative fee of fifty thousand dollars, (\$50,000) in the first fiscal year (FY) of 2011/2012. Administrative fee for FY2011/2012 may be amended once all claims, if any, for 2010/2011 fiscal year are submitted to COUNTY for processing to the State of California Department of Health Care Services. Thereafter, the administrative fee is subject to change each additional year depending on the total invoice amount and after the COUNTY administrative fee of five percent (5%) is applied.

Estimated Total Administration Fee:

The MAA administrative fee is generally calculated and an invoice issued only after the RTA has been paid for all four (4) quarterly invoices for the prior fiscal year. In the event of slow MAA disbursements by DHCS, the COUNTY will submit to the RTA an estimated administrative fee invoice. The invoice will be based on the most recent complete fiscal year payments to the RTA.

For Example:

The FY 2011/2012 MAA administrative fee would be calculated based on a percentage of FY 2010/2011 payments by the RTA. However, if DHCS is slow in processing FY 2010/2011 payments, then the MAA administrative fee will be estimated based on the most recent complete fiscal year payments to the RTA (which in this example could be FY 2009/2010 MAA disbursements).

If an estimated invoice is issued for FY 2011/2012, the final FY 2011/2012 invoice will be calculated upon receipt of complete payments for FY 2010/2011. If the final invoice amount is greater than the estimated invoice figure, an invoice will be created for the difference and submitted to the RTA for payment to the COUNTY. In the case of the final administrative fee invoice being lower than the estimated invoice, the amount owed to the RTA will be reimbursed by the COUNTY.

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REGISTRATION NUMBER EP1149730	AGREEMENT NUMBER 11-88018
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1. This Agreement is entered into between the State Agency and the Contractor named below:
(Also known as DHCS, CDHS, DHS or the State)

STATE AGENCY'S NAME
Department of Health Care Services (Also referred to as Contractor)

CONTRACTOR'S NAME
Riverside County

2. The term of this Agreement is: July 1, 2011 through June 30, 2014

3. The maximum amount of this Agreement is: \$ 48,000,000
Forty-Eight Million Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

- Exhibit A – Scope of Work 7 pages
- Exhibit B – Budget Detail and Payment Provisions 5 pages
- Exhibit C.* – General Terms and Conditions GTC 610
- Exhibit D (F) – Special Terms and Conditions (Attached hereto as part of this agreement) 26 pages
- Exhibit E – Additional Provisions 4 pages
- Exhibit F – HIPAA Business Associate Addendum 10 pages
- Exhibit G – Contractor's Release 1 page

See Provision 1 of Exhibit E for additional incorporated exhibits.

Items shown above with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at [http://www.ols.dgs.ca.gov/Standard Language/default.htm](http://www.ols.dgs.ca.gov/StandardLanguage/default.htm).

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)
Riverside County

BY (Authorized Signature) *Bob Buster* DATE SIGNED (Do not type)
3/15/11

PRINTED NAME AND TITLE OF PERSON SIGNING
Bob Buster, Chairman, Board of Supervisors

ADDRESS
4065 County Circle Drive Room 403
Riverside, CA 92503

STATE OF CALIFORNIA

AGENCY NAME
Department of Health Care Services

BY (Authorized Signature) *Jayna Querin* DATE SIGNED (Do not type)
5-11-11

PRINTED NAME AND TITLE OF PERSON SIGNING
Jayna Querin, Chief, Contract Management Unit

ADDRESS
1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413,
Sacramento, CA 95899-7413

FORM APPROVED COUNTY COUNCIL BY NEAL R. KIPNIS

California Department of
General Services Use Only

APPROVED

MAY 19 2011

DEPT. OF GENERAL SERVICES

Exempt per:

KM R...

ATTEST:
KECIA HARPER-IHEM, Clerk
By *[Signature]*
DEPUTY

Exhibit A
Scope of Work

1. Service Overview

Contractor agrees to provide to the California Department of Health Care Services (DHCS) the services described herein.

Contractor shall perform Medi-Cal Administrative Activities (MAA) on behalf of DHCS to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. These activities include: Medi-Cal Outreach, Facilitating Medi-Cal Application, Medi-Cal Non-Emergency Transportation, Contracting for Medi-Cal Services, Program Planning and Policy Development, Medi-Cal Administrative Activities Coordination and Claims Administration and Training.

2. Service Location

The services shall be performed at applicable facilities within the Riverside County geographic region.

3. Service Hours

The services shall be provided during normal Contractor working hours and days.

4. Project Representatives

A. The project representatives during the term of this agreement will be:

Department of Health Care Services
Barbara Schultz, Chief
School-Based MAA Unit

Telephone: (916) 552-9616
Fax: (916) 324-0738
E-Mail: Barbara.Schultz@dhcs.ca.gov

Riverside County
Bob Buster, Chairman,
Board of Supervisors
Telephone: (951) 358-5079
Fax: (951) 358-5292

B. Direct all inquiries to:

Department of Health Care Services
Administrative Claiming Local & Schools
Services Branch
Tonya Corral, SMAA Analyst
1501 Capitol Ave., MS 4603
P.O. Box 997436
Sacramento, CA 95899-7436

Telephone: (916) 445-4248
Fax: (916) 324-0738
E-Mail: Tonya.Corral@dhcs.ca.gov

Riverside County
Attn: Robert A. Wisdom,
Supervising Accountant/SMAA Program
Fiscal Services-Community Health
Agency
4065 County Circle Drive, Room 403
Riverside, CA 92503

Telephone: (951) 358-5079
Fax: (951) 358-5292
E-Mail: rwisdom@rivcocha.org

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

Exhibit A
Scope of Work

5. Services to be Performed

A. The following MAA are *eligible* for 50-percent Federal Financial Participation (FFP) rate.

1) Initial Medi-Cal Outreach

This activity is when school staff perform *initial* activities that inform eligible or potentially eligible individuals about Medi-Cal programs and services and how to access them. Initial activities would include bringing potential eligible's into the Medi-Cal system for the purpose of determining eligibility and initially arranging for the provision of Medi-Cal services. Include related paperwork, clerical activities, or staff travel required to perform these activities (including initiating and responding to email and voicemail). LEAs only conduct outreach for the populations served by their schools (i.e., students and their parents or guardians). The following are examples of activities that are considered Medi-Cal outreach:

- a) Providing initial information about Medi-Cal-covered services and/or DHCS screenings (e.g., dental, vision) in the schools that will help identify medical conditions that can be corrected or improved by services through Medi-Cal.
- b) Identifying and referring adolescents who may be in need of Medi-Cal family planning services.
- c) Informing Medi-Cal-eligible and potential Medi-Cal-eligible children and families about the benefits and availability of services provided by Medi-Cal.
- d) Informing children and their families on how to effectively access, use, and maintain participation in all health resources under the federal Medi-Cal/Healthy Families program.
- e) Assisting in the early identification of children who could benefit from the health services provided by Medi-Cal as part of a Medi-Cal/Healthy Families outreach campaign.
- f) Contacting pregnant and parenting teenagers about the availability of Medi-Cal prenatal and well-baby care programs and services.
- g) Conducting a family planning health education outreach program or campaign—if it is targeted specifically to family planning Medi-Cal services that are offered to Medi-Cal-eligible individuals.
- h) Providing initial referral assistance to families where Medi-Cal services can be provided.
- i) Participating in or coordinating outreach trainings that improve the delivery of Medi-Cal services.
- j) Providing information regarding Medi-Cal managed care programs and health plans to individuals and families and how to access that system.

2) Activities that are not considered Medi-Cal outreach under any circumstances are:

- a) General preventive health education programs or campaigns addressed to life-style changes in the general population (e.g., dental prevention, anti-smoking, alcohol reduction, etc.), and

Exhibit A
Scope of Work

- b) Outreach campaigns directed toward encouraging persons to access social, educational, legal, or other services *not* covered by Medi-Cal.

3) Facilitating Medi-Cal Application

This activity is when school staff assists an individual in becoming eligible for Medi-Cal/Healthy Families. Include related paperwork, clerical activities, or staff travel required to perform these activities, including initiating and responding to email and voicemail. This activity does not include the actual determination of Medi-Cal eligibility.

- a) Verifying an individual's current Medi-Cal/Healthy Families eligibility status for the purposes of Medi-Cal program.
- b) Explaining Medi-Cal/Healthy Families eligibility rules and the Medi-Cal/Healthy Families eligibility process to prospective applicants.
- c) Assisting individuals or families to complete a Medi-Cal/Healthy Families eligibility application.
- d) Gathering information related to the application and eligibility determination for an individual, including resource information as a prelude to submitting a formal Medi-Cal/Healthy Families application.
- e) Providing necessary forms and packaging all forms in preparation for the Medi-Cal/Healthy Families eligibility determination.
- f) Referring an individual or family to the local Medi-Cal/Healthy Families eligibility office to make application for Medi-Cal/Healthy Families.
- g) Assisting the individual or family in collecting/gathering required information and documents for the Medi-Cal/Healthy Families application.
- h) Participating as a Medi-Cal/Healthy Families eligibility outreach outstation, but does not include determining eligibility.
- i) Using client information gathered from various programs such as DHCS and the Free and Reduced Lunch Program to facilitate the Medi-Cal/Healthy Families application process and expand enrollment into Medi-Cal programs and services.

4) Medi-Cal Claims Administration, Coordination and Training

This activity is when coordinators and time survey participants perform activities that are directly related to Medi-Cal claims administration and coordination, and training activities. Staff who time survey should use this activity for time spent after initial or annual training in reviewing how to document relevant MAA through the time survey process. Reasonable time spent reviewing how to survey and working with others to complete the survey is acceptable. Include related paperwork, clerical activities, or staff travel necessary to perform these activities, including initiating and responding to email and voicemail.

- a) Drafting, revising, and submitting MAA operational plans.
- b) Serving as liaison for regional and local MAA claiming programs and with the State and Federal Governments on Medi-Cal administration.
- c) Monitoring the performance of claiming programs.

Exhibit A
Scope of Work

- d) Administering MAA, including overseeing, preparing, compiling, revising, and submitting claims.
- e) Training program and subcontractor staff on state, federal, and local requirements for MAA claiming.
- f) Ensuring that MAA claims do not duplicate Medi-Cal claims for the same activities from other providers.
- g) Attending meetings and conferences that involve MAA coordinators.

B. The following MAA are eligible for the 50-percent FFP rate however, the allocable share of costs must be determined by applying the discounted or proportional Medi-Cal share (the Medi-Cal percentage). The Medi-Cal share is determined by calculating the ratio of Medi-Cal eligible students to total students.

1) Ongoing Referral, Coordination, and Monitoring of Medi-Cal Services

This activity is when school staff makes ongoing referrals for, coordinating, and/or monitoring the delivery of Medi-Cal-covered services. This activity is used after an initial referral is made.

School staff performs this activity when making ongoing referrals for, coordinating, and/or monitoring the delivery of Medi-Cal-covered services.

- a) Making referrals for and/or coordinating medical or physical examinations and necessary medical/mental health evaluations.
- b) Making referrals for and/or scheduling certain Medi-Cal-covered DHCS screens, inter-periodic screens, and appropriate immunization, but NOT to include the State-mandated health services.
- c) Referring students for necessary medical health, mental health, or substance abuse services covered by Medi-Cal.
- d) Arranging for any Medi-Cal-covered medical/mental health diagnostic or treatment services that may be required as the result of a specifically identified medical/mental health condition.
- e) Gathering any information that may be required in advance of these referrals.
- f) Participating in a meeting/discussion to coordinate or review a student's needs for health-related services covered by Medi-Cal.
- g) Providing follow-up contact to ensure that a child has received the prescribed medical/mental health services.
- h) Coordinating the completion of the prescribed services, termination of services, and the referral of the child to other Medi-Cal service providers as may be required to provide continuity of care.
- i) Providing information to other staff on the child's related medical/mental health services and plans.
- j) Coordinating the delivery of community-based medical/mental health services for a child with special/severe health care needs.
- k) Monitoring and evaluating the Medi-Cal-covered service components.

Exhibit A
Scope of Work

- l) Coordinating medical/mental health service provisions with managed care plans as appropriate.

- 2) Arranging Transportation in Support of Medi-Cal Services

This activity is when school staff assists an individual or family to obtain transportation to services covered by Medi-Cal. This does not include:

- a) The provision of the actual transportation service, but rather the administrative activities involved in scheduling or arranging specialized transportation.
- b) Activities that contribute to the actual billing of transportation as a medical service.
- c) Accompanying the Medi-Cal-eligible individual to Medi-Cal services as an administrative activity.

Examples:

- d) Scheduling or arranging transportation to Medi-Cal-covered services.
- e) A transportation supervisor and staff time coordinating transportation to Medi-Cal services.
- f) Include related paperwork, clerical activities, or staff travel required to perform these activities, including initiating and responding to email and voicemail.

- 3) Translation

Translation may be allowable as an administrative activity if it is not included and paid for as part of a medical assistance service. However, translation must be provided by a third party translator or by *separate* employees performing translation functions for the school and it must facilitate access to Medi-Cal-covered services. Please note that a school district does not need to have a separate administrative claiming unit for translation.

- a) Arranging for or providing translation services (oral, written, and signing) that assist the individual to access and understand necessary care or treatment covered by Medi-Cal.
- b) Arranging for or providing translation to student/parent to understand how to access the application for Medi-Cal/Health Families.

- 4) Program Planning, Policy Development, and Interagency Coordination Related to Medi-Cal Services:

This activity is when school staff performs collaborative activities with other agencies associated with the development of strategies to improve the coordination and delivery of Medi-Cal-covered medical/mental health services to students and their families. Only employees whose position descriptions include program planning, policy development and interagency coordination should perform this activity.

- a) Identifying gaps or duplication of medical/mental health services to students and their families and developing strategies to improve the delivery and coordination of these services.

Exhibit A
Scope of Work

- b) Developing strategies to assess or increase the capacity of school medical/mental health programs.
 - c) Monitoring the medical/mental health delivery systems in schools.
 - d) Developing procedures for tracking families' requests for assistance with Medi-Cal covered services and providers. (This does not include the actual tracking of requests for Medi-Cal services.)
 - e) Evaluating the need for Medi-Cal services in relation to specific populations or geographic areas.
 - f) Analyzing Medi-Cal data related to a specific program, population, or geographic area.
 - g) Working with other agencies providing Medi-Cal services, to expand access to specific populations of Medi-Cal eligible, and to improve collaboration around the early identification of medical problems.
 - h) Defining the scope of each agency's Medi-Cal service in relation to the other.
 - i) Working with Medi-Cal resources, such as the managed care plans, to make good faith efforts to locate and develop health services referral relationships.
 - j) Developing advisory or work groups of health professionals to provide consultation and advice regarding the delivery of Medi-Cal care services to the school populations.
 - k) Developing medical referral sources, such as directories of Medi-Cal providers and managed care plans.
 - l) Coordinating with interagency committees to identify, promote, and develop Medi-Cal and/or the school system.
 - m) Negotiating and processing special agreements that support interagency coordination to improve the delivery of Medi-Cal services.
 - n) Participating in or coordinating training that enhances early identification, intervention, screening, and referral of students with special health needs to Medi-Cal services.
- 5) General Administration/Paid Time Off

This activity is a reallocated activity. This general administrative activity must be reallocated across the other activities on a *pro rate* basis.

The purpose this activity is to capture job duties that support time for your primary job. Time recorded under this activity will be apportioned appropriately to MAA and non-MAA. Paid time off is when you are being paid, but you're not at work. This includes paid vacation days, jury duty, sick leave, etc. If you are not paid for your time off, you can't record that time here. Unpaid time off should be left blank on your time survey.

Below are typical examples of general administrative activities:

- a) When not included in the indirect rate, the general operation of LEA such as accounting, budgeting, payroll, purchasing and data processing. (Certain functions, such as payroll, maintaining inventories, developing budgets, executive direction, etc., are considered overhead; therefore, they are ONLY allowable through the approved indirect cost rate.)

Exhibit A
Scope of Work

- b) General supervision of staff or facilities, including staff performance reviews, and personnel management.
- c) Reviewing non-instructional school policies, procedures, or rules.
- d) Attending or facilitating school or unit staff meetings, board meetings, or required in-service trainings and events.
- e) Review of professional and inter-district correspondence.
- f) Completing personal mileage and expense claims.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, DHCS agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates and/or allowable costs specified herein.
- B. Invoices shall include the Agreement Number and shall be submitted not more frequently than quarterly in arrears to:

Regular Mail

Barbara Schultz
Department of Health Care Services
Safety Net Financing Division
Administrative Claiming Local & Schools
Services Branch
MS 4603
PO Box 997436
Sacramento, CA 95899-7436

Overnight Mail

Barbara Schultz
Department of Health Care Services
Safety Net Financing Division
Administrative Claiming Local & Schools
Services Branch
MS 4603
1501 Capitol Avenue
Sacramento, CA 95814

C. Invoices shall:

- 1) Be prepared on both the Summary Invoice and Detail Invoice incorporated by reference in Exhibit E, Provision 1.
- 2) Be prepared on Contractor letterhead and must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the service performed under this agreement on the Summary Invoice.
- 3) Bear the Contractor's name as shown on the agreement on both the Summary Invoice and on the Detail Invoice.
- 4) Identify the billing and/or performance period covered by the invoice on both the Summary Invoice and on the Detail Invoice.
- 5) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement on the Detail Invoice. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by DHCS.
- 6) Provide the DHCS with complete invoice and expenditure information to include in the Centers for Medicare and Medicaid Services CMS 64 no later than *fifteen* (15) months after the end of the quarter for which the claim was submitted. This information shall be provided on the standardized Summary Invoice and Detail Invoice.
- 7) Identify on the Detail Invoice, the claim categories to which expenditure data must adhere for insertion into the CMS 64. A separate Detail Invoice shall be submitted for each Local Educational Agency claiming MAA costs pursuant to this agreement, except for contracted employees under the direct control of the Contractor. Contracted employees' costs shall be aggregated and reported in accordance with the MAA Invoice instructions. The Detail Invoice(s) for each of the programs claimed shall correspond to the name of the claiming programs identified in the Contractors MAA Operational Plan. The Invoice instructions and the MAA Operational Plan are found in the California School-Based MAA Provider Manual incorporated by reference in Exhibit E, Provision 1.

Exhibit B
Budget Detail and Payment Provisions

D. Rates Payable

- 1) The invoices may include the cost of expenses of staff and the operating expenses and equipment costs necessary to collect data, disseminate information, and carry out the staff activities outlined in this agreement.
 - a. The rate of federal reimbursement is 50 percent Federal Financial Participation (FFP) for all costs of subcontractors (non-governmental entities) performing allowable administrative activities as defined in Provision 5, Services to be Performed, of Exhibit A-Scope of Work.
 - b. The maximum rate of reimbursement for all non-public subcontractors to the Contractor shall be 50 percent for all categories of cost.
- E. Certify the certified public expenditure from Contractor's General Fund, or from any other funds allowed under federal law and regulation, for Title XIX funds claimed for MAA performed pursuant to W&I Code Section 14132.47. The following certification statement shall be made on each Summary Invoice submitted to the DHCS for Payment for the performance of MAA.

"I certify under penalty of perjury that the information provided on this invoice is true and correct, based on actual expenditures for the period claimed, and that the funds/contributions have been expended as necessary for federal matching funds pursuant to the requirements of 42 CFR 433.51, allowable administrative activities and that these claimed expenditures have not been nor shall not subsequently be used for federal match in this or any other program. I have notice that the information is to be used for filing of a claim with the Federal Government for federal funds and knowing misrepresentation constitutes violation of the Federal False Claims Act."

The DHCS shall deny payment of any claim submitted under this agreement if it determines that the certification is not adequately supported for purposes of Federal Financial Participation (FFP). Expenditures certified for MAA costs shall not duplicate, in whole or in part, claims made for the costs of direct patient care.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the DHCS shall have the option to either cancel this Agreement with no liability occurring to the DHCS, or offer an agreement amendment to Contractor to reflect the reduced amount.

Exhibit B
Budget Detail and Payment Provisions

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Amounts Payable

A. The amounts payable under this agreement shall not exceed:

- 1) \$16,000,000 for the budget period of 07/01/11 through 06/30/12,
- 2) \$16,000,000 for the budget period of 07/01/12 through 06/30/13,
- 3) \$16,000,000 for the budget period of 07/01/13 through 06/30/14.

B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the DHCS fiscal year in which services are performed and/or goods are received.

5. Timely Submission of Final Invoice

A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this Agreement, unless a later or alternate deadline is agreed to in writing by the Program Contract Manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of DHCS under this Agreement have ceased and that no further payments are due or outstanding.

B. DHCS may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written DHCS approval of an alternate final invoice submission deadline. Written DHCS approval shall be sought from the Program Contract Manager prior to the expiration or termination date of this Agreement.

C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a "Contractor's Release (Exhibit G)" acknowledging submission of the final invoice to DHCS and certifying the approximate percentage amount, if any, of recycled products used in performance of this Agreement.

6. Participation in Medi-Cal Administrative Claiming Process

A. As a condition of participation in the Medi-Cal Administrative Claiming process, and in recognition of revenue generated in the Medi-Cal Administrative Claiming process, the Contractor shall pay an annual participation fee through a mechanism agreed to by the DHCS and Contractors, or, if no agreement is reached by August 1 of each year, directly to the DHCS.

B. The participation fee shall be used to cover the cost of administering the Medi-Cal Administrative Claiming process, including, but not limited to, claims processing, technical assistance, and monitoring. The DHCS shall determine and report staffing requirements upon which projected costs will be based.

Exhibit B
Budget Detail and Payment Provisions

- C. The amount of the participation fee shall be based upon the anticipated DHCS salaries, benefits, operating expenses and equipment, necessary to administer the Medi-Cal Administrative Claiming process and other costs related to that process.

7. Non-Federal Matching Funds for Medi-Cal Administrative Activities

The Contractor will expend one hundred percent (100%) of the non-federal share of the cost of performing Medi-Cal Administrative Activities. By signing this agreement the Contractor certifies that the funds expended for this purpose shall be from the Contractor's general fund or from any other funds allowable under federal law and regulation.

8. Claiming Overhead Costs

- A. In order to claim administrative overhead costs, also referred to as "External Administrative Overhead" costs, the Contractor must have a DHCS Controller's Office approved LEC administrative overhead cost allocation plan for the applicable period and these costs must be claimed in accordance with the plan. A local governmental agency's plan is submitted to the California DHCS Controller's Office, which has delegated authority from the Federal Government to approve it.
- B. Internal (departmental) administrative overhead costs are allowable for FFP only if there is a departmental overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with it following Federal Office of Management and Budget (OMB) Circular A-87 guidelines.
- C. Both external and internal administrative cost allocation plans must comply with provisions of the federal OMB Circular A-87, entitled "Cost Principles for DHCS, Local, and Indian Tribal Governments" and Federal Publication OASC-10, entitled "A Guide for DHCS and Local Governments/Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government."
- D. The Contractor must assure that costs claimed as direct costs not duplicate costs claimed through the application of the indirect cost rate.

9. Offset of Revenues

- A. To the extent that other funding sources have paid or would pay for the costs at issue, Federal Financial Participation (FFP) is not available and the costs must be removed from the total costs (*OMB Circular A-87, Attachment A, Part C., Item 4.a.*). The revenue offset categories which must be applied in developing the net costs include, but are not limited to:
- 1) All unallowable federal funds, including not only federal grants but also federal payments for services under Medicare fee-for-service or encounter rates.
 - 2) All DHCS expenditures which have been previously matched by the federal government (*includes Medicaid funds for medical assistance, such as the payment rate for services under fee-for-service or encounter rates*). Claims submitted will not be duplicative of Medicaid claims for costs that are part of the all inclusive rate for direct patient care.

Exhibit B
Budget Detail and Payment Provisions

- 3) Private insurance and other fees collected from non-governmental sources.
- 4) All applicable credits must be offset against claims for Medicaid funds. Applicable credits refer to those receipts or reduction of expenditure type transactions that offset or reduce expense items allocable to federal awards as direct or indirect costs.
- 5) A program may not claim any federal match for administrative activities if its total cost has already been paid by the revenue sources above. A government program may not be reimbursed in excess of its actual costs, i.e., make a profit.

10. Expense Allowability/Fiscal Documentation

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by the DHCS, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

11. Federal Audit Disallowances

- A. In addition to the indemnification required by Exhibit C, Provision 5, and notwithstanding any other provision of this agreement, the DHCS shall be held harmless, in accordance with Provision 2, Budget Contingency Clause, paragraphs A and B, from any federal audit disallowance and interest resulting from payments made to the Contractor pursuant to W&I Code Section 14132.47, and this agreement, less the amounts already remitted to the DHCS.
- B. To the extent that a federal audit disallowance and interest results from a claim or claims for the Contractor has received reimbursement for MAA, the DHCS shall recoup from the Contractor which submitted the disallowed claim, through offsets or by direct billing, amounts equal to the amount of the disallowance plus interest in that fiscal year. All subsequent claims submitted to the DHCS applicable to any previously disallowed MAA or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.
- C. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for MAA performed by a non-governmental entity under agreement with, and on behalf of, the Contractor, the DHCS shall be held harmless by that particular Contractor for 100 percent of the amount of any such final federal audit disallowance and interest less the amounts already remitted to the DHCS for the disallowed claim.

Special Terms and Conditions

(For federally funded service contracts or agreements and grant agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount, agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

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1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services (DHCS) formerly known as California Department of Health Services (CDHS).)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veterans' Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the DPA rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to DPA rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

3. Procurement Rules

(Applicable to all agreements in which equipment, miscellaneous property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed with state or federal funds.)

a. Equipment definitions

Wherever the term equipment and/or miscellaneous property is used, the following definitions shall apply:

- (1) **Major equipment:** A tangible or intangible item having a base unit cost of \$5,000 or more with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more that is listed on the DHCS Asset Management Unit's Minor Equipment List and is either furnished by DHCS or the cost is reimbursed through this Agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHCS Program Contract Manager.
- (3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHCS or the cost is reimbursed through this Agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c. of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

(1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment purchased through DHCS Purchasing Unit. The cost of equipment purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with DHCS. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

(2) All equipment purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.

(3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:

(a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

(b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

(c) Procurements shall be conducted in a manner that provides for all of the following:

[1] Avoid purchasing unnecessary or duplicate items.

[2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.

[3] Take positive steps to utilize small and veteran owned businesses.

d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.

e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor

purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or miscellaneous property is furnished by DHCS and/or when said items are purchased or reimbursed with state or federal funds.)

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 4, the definitions in Provision 3, Paragraph a shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or miscellaneous property that are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) DHCS requires the reporting, tagging and annual inventorying of all equipment and/or miscellaneous property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or miscellaneous property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
- (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHCS' Asset Management Unit.

- b. Title to state equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or miscellaneous property.
- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or miscellaneous property.

(1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.

- e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or miscellaneous property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.

- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or miscellaneous property to DHCS. Final disposition of equipment and/or miscellaneous property shall be at DHCS expense and according to DHCS instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different DHCS agreement.

g. Motor Vehicles

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

(1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.

(2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.

(3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.

(4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
- [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (Department of Health Care Services).
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
 - [3] The insurance carrier shall notify the Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3)

herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.

- (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) The State may identify the information needed to fulfill this requirement.
 - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
 - (a) A local governmental entity or the federal government,
 - (b) A State college or university from any State,
 - (c) A Joint Powers Authority,
 - (d) An auxiliary organization of a California State University or a California community college,
 - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
 - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Entities of any type that will provide subvention aid or direct services to the public,
 - (h) Entities and/or service types identified as exempt from advertising in State Administrative Manual Section 1233 subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>.
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 31; and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software.

necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder, including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

9. Federal Contract Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

(1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a

similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing, or hereafter existing for any purposes without the prior written permission of DHCS. Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year: e.g., 2007, etc.], Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

e. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

f. Warranties

- (1) Contractor represents and warrants that:
 - (a) It is free to enter into and fully perform this Agreement.
 - (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 - (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or

other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
 - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
 - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.
- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-

infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement, except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

13. Confidentiality of Information

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

15. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.

(1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefor. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

(2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- e. There are organizational differences within DHCS funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, and/or
 - (2) If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, and/or
 - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

- (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to DHCS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

18. Novation Requirements

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

19. Debarment and Suspension Certification

(Applicable to all agreements funded in part or whole with federal funds.)

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Have not within a three-year period preceding this application/proposal/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;

(3) Are 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 b(2) herein; and

(4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.

- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

22. Payment Withholds

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

23. Performance Evaluation

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

24. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

25. Four-Digit Date Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

26. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

27. Use of Small, Minority Owned and Women's Businesses

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses:)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act, (8 U.S.C. 1601, et seq.)

29. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

- (1) Be necessary and reasonable for the performance of the Agreement.
- (2) Be determined in accordance with generally accepted accounting principles.
- (3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
- (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) Example No. 1:

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) Example No. 2:

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) Example No. 3:

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

31. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
 - (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
 - (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
 - (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.
- b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay 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 any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

STATE OF CALIFORNIA
DEPARTMENT OF HEALTH CARE SERVICES

CERTIFICATION REGARDING LOBBYING

The undersigned 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 undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, 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 agency of the United States Government, 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, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., 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.

_____	_____
Name of Contractor	Printed Name of Person Signing for Contractor
_____	_____
Contract / Grant Number	Signature of Person Signing for Contractor
_____	_____
Date	Title

After execution by or on behalf of Contractor, please return to:

Department of Health Care Services
Safety Net Financing Division
Administrative Claiming Local & Schools Services Branch
1501 Capitol Avenue
MS 4603
P.O. Box 997417
Sacramento, CA 95899-7417

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

CERTIFICATION REGARDING LOBBYING
 Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure)

Approved by OMB
 0348-0040

<p>1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, If known: Congressional District, If known:</p>	<p>5. If Reporting Entity in No. 4 Is Subawardee, Enter Name and Address of Prime: Congressional District, If known:</p>	
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description: CDFA Number, If applicable: _____</p>	
<p>8. Federal Action Number, If known:</p>	<p>9. Award Amount, If known: \$ _____</p>	
<p>10.a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI):</p>	<p>b. Individuals Performing Services (including address if different from 10a. (Last name, First name, MI):</p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if, it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
 (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Exhibit E
Additional Provisions

1. Additional Incorporated Exhibits

A. The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. Contractors are required to fully comply with the directives in each document incorporated by reference herein and each update thereto. These documents may be updated periodically by DHCS, as required by program directives or changes in law or policy. Unless otherwise indicated, DHCS shall provide the Contractor with copies of said documents at or before the agreement is presented to the Contractor for review, acceptance, and signature and will require acknowledgement of receipt. Period updates to the below listed documents that are not electronically accessible via the internet, an Extranet link or other mechanism will be presented to the Contractor under separate cover and acknowledgement of receipt will be required. DHCS will maintain on file, all documents referenced herein and any subsequent updates.

- 1) School Based MAA Manual*
- 2) Policy & Procedure Letters*
- 3) School Based Time Survey for Employees Performing Medi-Cal Administrative Activities*
- 4) Medi-Cal Administrative Activities Summary Invoice*
- 5) Medi-Cal Administrative Activities Detail Invoice*

*The above referenced documents can be found on the internet at:
<http://www.dhcs.ca.gov/ProvGovPart/Pages/SMAA.aspx>

2. Amendment Process

Should either party, during the term of this Agreement, desire a change or amendment to the terms of this Agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by the both parties and the Department of General Services (DGS), if DGS approval is required.

3. Cancellation/Termination

- A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall DHCS the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from DHCS, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.

Exhibit E
Additional Provisions

- C. Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the DHCSd maximum amounts payable.

4. Contractor Responsibilities

- A. Comply with 42 U.S.C., Section 1396 et seq., 42 Code of Federal Regulations (CFR) Part 400 et seq., and 45 CFR Part 95, California Welfare and Institutions Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200), and Title 22 California Code of Regulations CCR, Division 3 (commencing with Section 50000), all as periodically amended; DHCS issued policy directives; and Federal Office of Management and Budget (OMB) Circular A-87, as periodically amended.
- B. If the Contractor enters into contracts with other organizations to perform MAA in support of the Contractor claiming administrative reimbursement, the Contractor shall have available for DHCS and/or Federal review, any contract to perform administrative activities under the auspices of the Medi-Cal Program.
- C. The Contractor is responsible for the acts or omissions of its employees and/or subcontractors. Submission of a falsified Summary Invoice or Detailed Invoice by a Contractor shall constitute a breach of contract. Submission of a Summary Invoice or Detailed Invoice for which there is no supporting documentation by a Contractor may constitute a breach of contract.
- D. The conviction of an employee or subcontractor of the Contractor, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a convicted individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.
- E. Exclusion after conviction shall result regardless of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.
- F. Suspension or exclusion of an employee or subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal Program, the Medicaid Program, or the Medicare Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a suspended or excluded individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.

Exhibit E
Additional Provisions

- G. Revocation, suspension, or restriction of the license, certificate, or registration of any employee, subcontractor, or employee of a subcontractor, shall result in exclusion from the Medi-Cal Administrative Claiming process, when such license, certificate, or registration is required for the performance of Medi-Cal administrative activities. Failure of a Contractor to exclude an individual whose license, certificate, or registration has been revoked, suspended, or restricted, from participation in the Medi-Cal Administrative Claiming process, may constitute a breach of contract.

5. DHCS Responsibilities

- A. Review, approve, as appropriate, and process Contractor claims for reimbursement of the allowable actual costs of providing administrative activities necessary for the proper and efficient administration of the Medi-Cal Program. Reimbursement shall be made subsequent to the quarter for which a claim for MAA is made. Any claim that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.
- B. Provide the Contractor with a standardized format for the Summary Invoice, Detailed Invoice and MAA Claiming Plan which will be disseminated through policy directives issued by the DHCS.
- C. Review MAA Claiming Plan and amendment(s) to the MAA Claiming Plan. Any amendment that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.
- D. Provide program monitoring and oversight including periodic site reviews for compliance with DHCS and federal requirements and regulations. DHCS will retain ultimate responsibility for program oversight and policy interpretation.
- E. Submit approved MAA Claiming Plans and amendments to the Centers for Medicare and Medicaid Services (CMS) for review and approval if required.
- F. Make available to Contractors, training and technical support on proper administrative activities to be claimed, identifying costs related to these activities, and billing procedures. Training material is to be developed by and/or approved by DHCS.

6. Joint Responsibilities

- A. The DHCS and the Contractor hereby agree to comply with all applicable laws governing the confidentiality of client information for Medi-Cal clients served by the Contractor, or subcontractor, under this agreement. Applicable laws include, but are not limited to, 42 U.S.C. Section 1396a(a)7, 42 CFR Section 431.300, 45 CFR Sections 160, 162, and 164, Welfare and Institutions Code, Section 14100.2, and 22 California Code of Regulations, Section 51009.

Exhibit E
Additional Provisions

7. Audit

- A. This provision supersedes Provision #4, entitled "Audit" in General Terms & Conditions (GTC 307). View Exhibit C at the following Internet site:
<http://www.ols.dgs.ca.gov/Standard+Language>.
- B. Contractor agrees that the awarding department, the Department of General Services, the Bureau of DHCS Audits, or their designated representative, and employees of the California Department of Justice, and the United DHCSs Centers for Medicare and Medicaid Services, shall have the right to review, access, examine, monitor, audit, and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow interviews of any employees, or staff of any subcontractor, who might reasonably have information related to such records by either DHCS and/or federal authorities. For MAA, all records in support of allowable MAA activities must be maintained for a minimum of three fiscal years after the end of the quarter in which the LGA or LEC receives reimbursement from the Department of Health Care Services (DHCS) for the expenditures incurred. If an audit is in progress, all records relevant to the audit shall be retained until the completion of the audit or the final resolution of all audit exceptions, deferrals, and/or disallowances, whichever is later, and if litigation has been initiated, all necessary records shall be retained until the final resolution of the litigation. The records shall fully disclose the type and extent of administrative activities performed by the appropriate staff. The Contractor shall furnish such documentation and any other information regarding the performance of and payment for MAA, upon request, to the DHCS or federal government.

Exhibit F
HIPAA Business Associate Addendum

I. Recitals – STANDARD Risk

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations").
- B. The Department of Health Care Services ("DHCS") wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI").
- C. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and 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. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time.
- D. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- E. As set forth in this Agreement Contractor, here and after, is the Business Associate of DHCS that provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHCS and creates, receives, maintains, transmits, uses or discloses PHI.
- F. DHCS and Business Associate desire to protect the privacy and provide for the security of PHI created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, in compliance with HIPAA and HIPAA regulations and other applicable laws.
- G. The purpose of the Addendum is to satisfy certain standards and requirements of HIPAA and the HIPAA regulations.
- H. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.

In exchanging information pursuant to this Agreement, the parties agree as follows:

1. Permitted Uses and Disclosures of PHI by Business Associate

- A. **Permitted Uses and Disclosures.** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of DHCS, provided that such use or disclosure would not violate the HIPAA regulations, if done by DHCS.
- B. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
 - 1) **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or the Business Associate

Exhibit F
HIPAA Business Associate Addendum

obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

- 2) **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to DHCS. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of DHCS with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of DHCS.

2. Responsibilities of Business Associate

Business Associate agrees:

- A. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
- B. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of DHCS; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section C, Security, below. Business Associate will provide DHCS with its current and updated policies.
- C. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, and provide data security procedures for the use of DHCS at the end of the contract period. These steps shall include, at a minimum:
- 1) Complying with all of the data system security precautions listed in the Attachment A portion of this Addendum;
 - 2) In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that security standards which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with DHCS.

- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.
- E. **Business Associate's Agents.** To ensure that any agents, including subcontractors, to whom Business Associate provides PHI received from or created or received by Business Associate on behalf of DHCS, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including implementation of reasonable and appropriate administrative, physical, and

Exhibit F
HIPAA Business Associate Addendum

technical safeguards to protect such PHI; and to incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents or subcontractors.

- F. **Availability of Information to DHCS and Individuals.** To provide access as DHCS may require, and in the time and manner designated by DHCS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHCS (or, as directed by DHCS), to an Individual, in accordance with 45 CFR Section 164.524. Designated Record Set means the group of records maintained for DHCS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHCS health plans; or those records used to make decisions about individuals on behalf of DHCS. Business Associate shall use the forms and processes developed by DHCS for this purpose and shall respond to requests for access to records transmitted by DHCS within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
- G. **Amendment of PHI.** To make any amendment(s) to PHI that DHCS directs or agrees to pursuant to 45 CFR Section 164.526, in the time and manner designated by DHCS.
- H. **Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHCS, or created or received by Business Associate on behalf of DHCS, available to DHCS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHCS or by the Secretary, for purposes of determining DHCS' compliance with the HIPAA regulations.
- I. **Documentation of Disclosures.** To document and make available to DHCS or (at the direction of DHCS) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with 45 CFR 164.528.
- J. **Notification of Breach.** During the term of this Agreement:
- 1) **Discovery of Breach.** To notify DHCS *immediately by telephone call plus email or fax* upon the discovery of breach of security of PHI in computerized form if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person, or *within 24 hours by email or fax* of the discovery of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notification shall be provided by calling the DHCS ITSD Help Desk. Business Associate shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
 - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
 - 2) **Investigation of Breach.** To immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, to notify the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer of:
 - i. What data elements were involved and the extent of the data involved in the breach,

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HIPAA Business Associate Addendum

- ii. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data;
 - iii. A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized;
 - iv. A description of the probable causes of the improper use or disclosure; and
 - v. Whether Civil Code sections 1798.29 or 1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered.
- 3) **Written Report.** To provide a written report of the investigation to the DHCS Program Contract Managers, the DHCS Privacy Officer, and the DHCS Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- 4) **Notification of Individuals.** To notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and to pay any costs of such notifications, as well as any costs associated with the breach. The DHCS Program Contract Managers, the DHCS Privacy Officer, and the DHCS Information Security Officer shall approve the time, manner and content of any such notifications.
- 5) **DHCS Contact Information.** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

DHCS Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer c/o Office of Legal Services Department of Health Care Services P.O. Box 997413, MS 0011 Sacramento, CA 95899-7413 Email: privacyofficer@dhcs.ca.gov Telephone: (916) 445-4646	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Help Desk (916) 440-7000 or (800) 579-0874

- K. **Employee Training and Discipline.** To train and use reasonable measures to ensure compliance with the requirements of this Addendum by employees and volunteers who assist in the performance of functions or activities on behalf of DHCS under this Agreement and use or disclose PHI; and discipline such employees and volunteers who intentionally violate any provisions of this Addendum, including by termination of employment. In complying with the provisions of this section K, Business Associate shall observe the following requirements:
- 1) Business Associate shall provide information privacy and security training, at least annually, at its own expense, to all its employees and volunteers who assist in the performance of functions or activities on behalf of DHCS under this Agreement and use or disclose PHI.

Exhibit F
HIPAA Business Associate Addendum

- 2) Business Associate shall require each employee and volunteer who receives information privacy and security training to sign a certification, indicating the employee's/volunteer's name and the date on which the training was completed.
- 3) Business Associate shall retain each employee's/volunteer's written certifications for DHCS inspection for a period of three years following contract termination.

3. Obligations of DHCS

DHCS agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR 164.520, as well as any changes to such notice. Visit this Internet address to view the most current Notice of Privacy Practices: <http://www.dhs.ca.gov/privacyoffice>.
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. **Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that DHCS has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. **Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by DHCS.

4. Audits, Inspection and Enforcement

From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the DHCS Privacy Officer in writing. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does DHCS':

- A. Failure to detect or
- B. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of DHCS' enforcement rights under this Agreement and this Addendum.

5. Termination

- A. **Termination for Cause.** Upon DHCS' knowledge of a material breach of this Addendum by Business Associate, DHCS shall:
 - 1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHCS;

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HIPAA Business Associate Addendum

- 2) Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible; or
- 3) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.

B. **Judicial or Administrative Proceedings.** Business Associate will notify DHCS if it is named as a defendant in a criminal proceeding for a violation of HIPAA. DHCS may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. DHCS may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.

C. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from DHCS (or created or received by Business Associate on behalf of DHCS) that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, shall continue to extend the protections of this Addendum to such information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

6. Miscellaneous Provisions

A. **Disclaimer.** DHCS makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

B. **Amendment.** The parties acknowledge that federal and state laws relating to electronic 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 HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DHCS' request, Business Associate agrees to promptly enter into negotiations with DHCS concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. DHCS may terminate this Agreement upon thirty (30) days written notice in the event:

- 1) Business Associate does not promptly enter into negotiations to amend this Addendum when requested by DHCS pursuant to this Section or
- 2) Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHCS in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

C. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other

Exhibit F
HIPAA Business Associate Addendum

laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

- D. **No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than DHCS or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever;
- E. **Interpretation.** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
- F. **Regulatory References.** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. **Survival.** The respective rights and obligations of Business Associate under Section 6.C. of this Addendum shall survive the termination or expiration of this Agreement.
- H. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

Exhibit F
HIPAA Business Associate Addendum

Attachment A
Business Associate Data Security Requirements

1. General Security Controls

- A. **Confidentiality Statement.** All persons that will be working with DHCS PHI must sign a confidentiality statement. The statement must include at a minimum, General Use, Security and Privacy safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PHI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of three (3) years following contract termination.
- B. **Background check.** Before a member of the Contractor's workforce may access DHCS PHI, Contractor must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk for theft of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.
- C. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store DHCS PHI must be encrypted with a DHCS approved solution, such as a solution using a vendor product specified on the California Strategic Sourcing Initiative (CSSI) located at the following link: www.pd.dgs.ca.gov/masters/EncryptionSoftware.html. The encryption solution must be full disk.
- D. Only the minimum necessary amount of DHCS PHI may be downloaded to a laptop or hard drive when absolutely necessary for current business purposes.
- E. **Removable media devices.** All electronic files that contain PHI data must be encrypted when stored on any removable media type device (i.e. USB thumb drives, floppies, CD/DVD, etc.) with a DHCS approved solution, such as a solution using a vendor product specified on the CSSI.
- F. **Email security.** All emails that include DHCS PHI must be sent in an encrypted method using a DHCS approved solution, such as a solution using a vendor product specified on the CSSI.
- G. **Antivirus software.** All workstations, laptops and other systems that process and/or store DHCS PHI must have a commercial third-party anti-virus software solution with a minimum daily automatic update.
- H. **Patch Management.** All workstations, laptops and other systems that process and/or store DHCS PHI must have security patches applied and up-to-date.
- I. **User IDs and Password Controls.** All users must be issued a unique user name for accessing DHCS PHI. Passwords are not to be shared. Must be at least eight characters. Must be a non-dictionary word. Must not be stored in readable format on the computer. Must be changed every 60 days. Must be changed if revealed or compromised. Must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)
 - Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)

Exhibit F
HIPAA Business Associate Addendum

Attachment A
Business Associate Data Security Requirements

- J. **Data Destruction.** All DHCS PHI must be wiped from systems when the data is no longer necessary. The wipe method must conform to Department of Defense standards for data destruction. All DHCS PHI on removable media must be returned to DHCS when the data is no longer necessary. Once data has been destroyed, the DHCS Program Contract Manager must be notified.
- K. **Remote Access.** Any remote access to DHCS PHI must be executed over an encrypted method approved by DHCS using a vendor product specified on the CSSI. All remote access must be limited to minimum necessary and least privilege principles.

2. System Security Controls

- A. **System Timeout.** The system must provide an automatic timeout after no more than 20 minutes of inactivity.
- B. **Warning Banners.** All systems containing DHCS PHI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.
- C. **System Logging.** The system must log success and failures of user authentication at all layers. The system must log all system administrator/developer access and changes if the system is processing and/or storing PHI. The system must log all user transactions at the database layer if processing and/or storing DHCS PHI.
- D. **Access Controls.** The system must use role based access controls for all user authentications, enforcing the principle of least privilege.
- E. **Transmission encryption.** All data transmissions must be encrypted end-to-end using a DHCS approved solution, such as a solution using a vendor product specified on the CSSI, when transmitting DHCS PHI.
- F. **Host Based Intrusion Detection.** All systems that are accessible via the Internet or store DHCS PHI must actively use a comprehensive third-party real-time host based intrusion detection and prevention solution.

3. Audit Controls

- A. **System Security Review.** All systems processing and/or storing DHCS PHI must have at least an annual system security review. Reviews must include administrative and technical vulnerability scanning tools.
- B. **Log Reviews.** All systems processing and/or storing DHCS PHI must have a routine procedure in place to review system logs for unauthorized access.
- C. **Change Control.** All systems processing and/or storing DHCS PHI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

Exhibit F
HIPAA Business Associate Addendum

Attachment A
Business Associate Data Security Requirements

4. Business Continuity / Disaster Recovery Controls

- A. **Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PHI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to backup DHCS PHI to maintain retrievable exact copies of DHCS PHI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore DHCS PHI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

5. Paper Document Controls

- A. **Supervision of Data.** DHCS PHI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where DHCS PHI is contained shall be escorted and DHCS PHI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** DHCS PHI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** DHCS PHI must not be removed from the premises of the Contractor except with express written permission of DHCS.
- E. **Faxing.** Faxes containing DHCS PHI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending.
- F. **Mailing.** DHCS PHI shall only be mailed using secure methods. Large volume mailings of DHCS PHI shall be by a secure, bonded courier with signature required on receipt. Disks and other transportable media sent through the mail must be encrypted with a DHCS approved solution, such as a solution using a vendor product specified on the CSSI.

Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and one (1) copy. The original must bear the original signature of a person authorized to bind the Contractor. The additional copy may bear photocopied signatures.

Submission of Final Invoice

Pursuant to contract number 11-88018 entered into between the Department of Health Care Services (DHCS) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) _____ in the amount(s) of \$ _____ and dated _____ if necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by DHCS or purchased with or reimbursed by contract funds)

Unless DHCS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHCS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHCS, at DHCS' expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING IT TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): Riverside County

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: _____

Distribution: Accounting (Original) Program