

835



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

FROM: Community Health Agency / Department of Public Health

SUBMITTAL DATE:
November 22, 2010

SUBJECT: Ratify the Agreement between the County of Riverside Department of Public Health (DOPH) and the California Department of Public Health (CDPH) for the Health/Medical Emergency Preparedness Grants.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Ratify the Agreements between the County of Riverside Department of Public Health (DOPH) and the California Department of Public Health (CDPH) as follows:
 - A) Public Health Emergency Preparedness Cooperative Agreement in the amount of \$1,499,273 from August 10, 2010 through August 9, 2011; and
 - B) Cities Readiness Initiative (CRI) Grant in the amount of \$645,375 from August 10, 2010 through August 9, 2011; and
 - C) Hospital Preparedness Program (HPP) Grant in the amount of \$897,227 from July 1, 2010 through June 30, 2011; and
 - D) California State Pandemic Influenza Grant in the amount of \$131,553 from July 1, 2010 to June 30, 2011; and

(Motions continued on page 2)

KS:nm

Susan D. Harrington

 Susan Harrington, Director of Public Health

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 2,765,780	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	10/11

SOURCE OF FUNDS: 68% funding by U.S. Department of Health and Human Services through Centers for Disease Control and Prevention, 28% funding by U.S. Department of Health and Human Services through the Hospital Preparedness Program, and 4% funding through the California Department of Public Health.	Positions To Be Deleted Per A-30	<input checked="" type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
 BY: *Debra Courmoyer*
 Debra Courmoyer

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: December 7, 2010
 xc: CHA-Public Health

Kecia Harper-Ihem
 Clerk of the Board
 By: *[Signature]*
 Deputy

Prev. Agn. Ref.: 9/15/09, item 3.13 District: All Agenda Number:

ATTACHMENTS FILED
 WITH THE CLERK OF THE BOARD

3.6

FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]* DATE: 11/23/10
 Departmental Concurrence

Policy Policy
 Consent Consent
 Dept's Recomm.: Per Exec. Ofc.:

SUBJECT: Ratify the Agreement between the County of Riverside Department of Public Health (DOPH) and the California Department of Public Health (CDPH) for the Health/Medical Emergency Preparedness Grants.

RECOMMENDED MOTION (Continued):

- 2) Authorize the Chairman of the Board to sign four (4) originals of said Agreement on behalf of the County and sign four (4) originals of the Non-Supplantation Certification Form; and
- 3) Authorize the Chairman of the Board to sign four (4) originals of the Twelfth Amendment to the agreement with Riverside County Medical Association (RCMA) for the maintenance and testing of the Medical Alert System in the amount of \$15,000 and for volunteer medical staff recruitment in the amount of \$10,000, for a total contract amount of \$25,000; and
- 4) Authorize the Chairman of the Board to sign four (4) originals of the Agreement with The Hospital Association of Southern California (HASC) to upgrade ReddiNet from the current microwave system to a satellite system, for all 15 hospitals, Public Health Emergency Preparedness and Response (PHEPR) Branch and the Emergency Medical Services (EMS) Agency in the amount of \$170,000 for FY 2010-2011; and
- 5) Authorize the Director of Public Health to sign subsequent Non-Supplantation Certification Forms on a bi-annual basis; and
- 6) Authorize the Community Health Agency Director of Finance to sign the progress and expenditure reports regarding program and funds, and to make internal budget adjustments as needed.

BACKGROUND:

The DOPH was awarded \$3,173,428 to enhance public health and medical preparedness, planning and response related activities for Riverside County. These funds represent an integration of efforts across funding streams to include the Centers for Disease Control and Prevention (CDC) Public Health Emergency Preparedness Program; CDC Cities Readiness Initiative (CRI); Hospital Preparedness Program (HPP); and California State General Fund Pandemic Influenza Preparedness.

The Public Health Emergency Preparedness and Response (PHEPR) Branch will continue to focus on training and exercises to test and improve essential medical/health emergency response functions within Riverside County.

Other activities will include planning with the underserved special needs populations with California Children's Services to address the needs of physically disabled children during an emergency. PHEPR will continue to enhance and test plans for medication distribution to first responders, special populations and the community at large.

Riverside County is one of 17 designated CDC Cities Readiness Initiative (CRI) regions in the State of California. CRI will improve existing operational plans and procedures for mass prophylaxis by identifying a back-up to the existing transportation plan for equipment and supplies, conducting exercises of distribution plans and exploring alternate modes of medication dispensing. Planning efforts will include the recruitment and involvement of schools and businesses as Closed Points of Dispensing (PODs).

SUBJECT: Ratify the Agreement between the County of Riverside Department of Public Health (DOPH) and the California Department of Public Health (CDPH) for the Health/Medical Emergency Preparedness Grants.

BACKGROUND (Continued):

The Hospital Preparedness Program (HPP) will improve coordination between the DOPH and hospitals, clinics and skilled nursing facilities throughout the County by enhancing surge capacity, communications capabilities, planning for mass casualty/mass fatality events, mass medical evacuation, and by improving personal protective and decontamination equipment for chemical and biological agents. Activities will also enhance the healthcare systems ability to respond to any medical health emergency/event.

The Pandemic Influenza Preparedness and Response Program will continue to update the Riverside County Department of Public Health Pandemic Influenza Response Plan to ensure its operability during an influenza pandemic. Projects will also address medical surge, the allocation of scarce resources and the conduct of exercises to test developed plans and procedures.

Since 2005, DOPH has contracted with Riverside County Medical Association (RCMA) to maintain and test the Medical Alert System. The system has the ability to alert physicians throughout the County in the event there is a large scale disaster. The cost for maintenance and testing of the Medical Alert System is \$15,000. Additionally, RCMA will collaborate with the DOPH to assist in the recruiting of medical volunteers for the Riverside County Medical Volunteer Program. The cost for Medical Volunteer recruitment services is \$10,000.

DOPH will contract with HASC to upgrade ReddiNet from the current microwave system to a new satellite system for all 15 hospitals, PHEPR and the EMS Agency. ReddiNet is used by Department of Public Health to manage multi-casualty events, monitor components of hospital status, and track bed availability. In the event of a disaster, ReddiNet will provide real-time information that will allow emergency managers to better coordinate response efforts between the field and the hospital emergency department. The satellite system will provide redundancy to the ReddiNet infrastructure to ensure system viability. Total cost for the upgrade is \$170,000 as a one-time charge.

FINANCIAL INFORMATION:

The entire award amount based on the Comprehensive Agreement is \$3,173,428. Of that amount, \$36,482 will be retained by California Department of Public Health to purchase equipment on behalf of Riverside County. Of the remaining balance, \$2,765,780 was previously budgeted in FY 10/11 via the County budgeting process. Since the performance period ends August 9, 2011 for the Public Health Emergency Preparedness Cooperative Agreement, the remaining \$371,166 of the award will be budgeted in FY 11/12.

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

Attachment 24
County of Riverside
2010-11

Agreement No. EPO 10-33

**2010-11 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF)
Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding
AGREEMENT**

1. This Agreement is entered into between the California Department of Public Health, herein after referred to as "CDPH" and the County of Riverside, herein after referred to as "LHD" and/or "Local HPP Entity".
2. The term of this Agreement is:
 - August 10, 2010 through August 9, 2011 PHEP (Centers for Disease Control and Prevention [CDC])
 - July 1, 2010 through June 30, 2011 (Hospital Preparedness Program [HPP])
 - July 1, 2010 through June 30, 2011 (State GF Pandemic Influenza)
3. The maximum amount payable under this Agreement is \$3,173,428, and is allocated as follows:
 - \$1,499,273, PHEP CDC Base Allocation. (8/10/10 – 8/9/11)
 - \$0, Laboratory Allocation. (8/10/10 – 8/9/11)
 - \$0, Laboratory Trainee Stipends. (8/10/10 – 8/9/11)
 - \$0, Laboratory Training Assistance Grant. (8/10/10 – 8/9/11)
 - \$645,375, Cities Readiness Initiative Funds. (8/10/10 – 8/9/11)
 - \$897,227, HPP Allocation. (7/1/10 – 6/30/11)
 - \$131,553, State GF Pandemic Influenza Allocation. (7/1/10 – 6/30/11)
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	03 Pages
Exhibit B — Budget Detail and Budget Provisions	05 Pages
Exhibit B, Attachment 1, Criteria for Payments	01 Page
Exhibit C — Additional Provisions	03 Pages
Exhibit D(F) — Special Terms and Conditions (Federal)	26 Pages
Notwithstanding provisions 3, 4, 6, 12, 13, 17, 22, 23, 27, and 30 which do not apply to this Agreement.	
Exhibit E – Non-Supplantation Certification Form	01 Page

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Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

Attachment 24
County of Riverside
2010-11
Agreement No. EPO 10-33

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

CONTRACTOR	
CONTRACTOR'S NAME	
County of Riverside	
BY (Authorized Signature)	DATE SIGNED (Do not type -signor must date)
	12-7-10
PRINTED NAME AND TITLE OF PERSON SIGNING	ATTEST:
Marion Ashley, Chairman	KECIA HARPER-IHEM, Clerk
ADDRESS	By 
P.O. Box 7600, Riverside, CA 92513-7600	DEPUTY
STATE OF CALIFORNIA	
AGENCY NAME	
California Department of Public Health	
BY (Authorized Signature)	DATE SIGNED
ADDRESS	
1615 Capitol Avenue, MS 7002, P.O. Box 997377, Sacramento, CA 95899-7377	

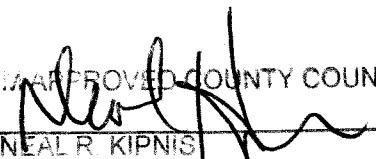
FOR APPROVED COUNTY COUNSEL
BY:  11/23/10
NEAL R. KIPNIS DATE

EXHIBIT A
2010-11 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Scope of Work

1. Service Overview

This Agreement is entered into between the California Department of Public Health, hereinafter referred to as "CDPH" and the County of Riverside, hereinafter referred to as the "LHD" and/or "Local HPP Entity". LHD or Local HPP Entity agrees to provide to CDPH the services described herein.

Activities must be in accordance with the Centers for Disease Control and Prevention (CDC) and Hospital Preparedness Program (HPP) 2010-11 Program Guidance, State General Fund (GF) Pandemic Influenza, Public Health Emergency Preparedness (PHEP) Comprehensive Agreement Application 2010-11, Plan and Budget.

2. Service Location

The services shall be performed at applicable facilities in the County of Riverside.

3. Service Hours

The services shall be provided during normal LHD and/or Local HPP Entity working hours and days, as well as other hours and days the LHD deems appropriate.

4. Project Representatives

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

Department of Public Health	County of Riverside
EPO Project Officer Edward Soto Telephone: (916) 650-6453 Fax: (916) 650-6420 Email: edward.soto@cdph.ca.gov	PHEPR Chief Kimberly Saruwatari Telephone: (951) 358-7100 Fax: (951) 358-71005 Email: KSaruwatari@RivcoCHA.org

B. Direct all inquiries to:

Department of Public Health	County of Riverside
Emergency Preparedness Office Attention: Local Management Unit MS 7002 P.O. Box 997377 Sacramento, CA 95899-7377 Telephone: (916) 650-6416 Fax: (916) 650-6420	Department of Public Health PO Box 7600 Riverside, CA 92513-7600 Telephone: (951) 358-7100 Fax: (951) 358-71005

- 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.

5. Services to be Performed

LHD and/or Local HPP Entity shall perform services as outlined in accordance with the Public Health Emergency Preparedness, State GF Pandemic Influenza and HHS Hospital Preparedness Cooperative Agreement Application, Work Plans, and Budgets.

6. Allowable Informal Scope of Work Changes

- A. The LHD and/or Local HPP Entity or CDPH may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work (SOW), provided such changes do not alter the overall goals and basic purpose of the agreement.
- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of agreement deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder shall not require a formal agreement amendment, provided the LHD's and/or Local HPP Entity's annual budget does not increase or decrease as a result of the informal SOW change.
- D. Unless otherwise stipulated in this agreement, all informal SOW changes and revisions are subject to prior written approval by the CDPH.
- E. In implementing this provision, CDPH will provide a format for the LHD's and/or Local HPP Entity's use to request informal SOW changes.

7. Reporting Requirements

- A. Semi-annual written progress reports and expenditure reports must be submitted according to the schedule shown below. The purpose of the progress reports and expenditure reports are to document activities and expenditure of funds.

Start of each grant through 02/28/11	April 1, 2011
Start of each grant through end of each grant	November 1, 2011

- B. Each progress report shall include, but not be limited to, data and information required by statute and information needed to satisfy federal reporting and CDPH monitoring requirements. The reports shall be submitted in accordance with procedures and a format required by CDPH.

8. Expenditure and Program Requirements

- A. In accordance with the LHD and/or Local HPP Entity signed Certification Against Supplanting (Exhibit E), funds shall not be used to supplant funding for existing levels of services and will only be used for the purposes designated herein.
- B. In executing this Agreement, the LHD and/or Local HPP Entity assures that it will comply with the LHD and/or Local HPP Entity Comprehensive Agreement Application, Work Plans and Budget approved by CDPH.
- C. Funds made available are limited to activities approved in the Work Plans and Budgets. Any changes to the Work Plans or Budgets need prior approval from CDPH before implementing. Any contracts or subcontracts needing approval from Project Officer must be submitted prior to spending those funds.

Exhibit B
2010-11 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF)
Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding
Budget Detail and Payment Provisions

1. Payment Provisions

- A. CDPH will make payments to the LHD and/or Local HPP Entity as authorized in State statute and in accordance with the annual expenditure authority granted to CDPH in the California Budget Act. Payments shall be made in accordance with Exhibit B, Attachment 1. Payment beyond the first quarter shall be contingent upon the approval of the LHD's and/or Local HPP Entity's funding Application, Work Plan, and Budget and satisfactory progress in implementing the provisions of the Work Plan, as determined by CDPH. Final payment is contingent upon receiving acceptable progress and expenditure reports submitted in accordance with timelines, formats and specifications to be provided by CDPH. **Note:** Both HPP and the State GF Pandemic Influenza require submission of invoice forms to be reimbursed.
- B. Reconciliation with the payments shall be through a semi-annual expenditure report and an annual reconciliation report. These reports shall be submitted in accordance with timelines, formats and specifications to be provided by CDPH. Expenditure reports and annual reconciliation report should be sent to:

California Department of Public Health
Emergency Preparedness Office
Attn: Local Management Unit
MS 7002
P.O. Box 997377
Sacramento, CA 95899-7377

- C. The LHD and/or Local HPP Entity shall deposit advance federal fund payments received from CDPH into separate Trust Funds (hereafter called Federal Fund), established solely for the purposes of implementing the activities described in the LHD's and/or Local HPP Entity's approved Work Plan and Budget and Agreement before transferring or expending the funds for any of the uses allowed. CDPH requires that the LHD and/or Local HPP Entity set up separate Federal Funds for PHEP CDC and HPP funds.
- D. The LHD and/or Local HPP Entity agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the LHD and/or Local HPP Entity under this Agreement shall be deposited into the Federal Fund established solely for the purposes of implementing the activities described in the LHD's and/or Local HPP Entity's approved Work Plan and Budget and Agreement before transferring or expending the funds for any of the uses allowed.

- E. The interest earned on moneys in the Federal Fund shall accrue to the benefit of the Federal Fund and shall be expended for the same purposes as other moneys in the Federal Fund.
- F. Any refunds, rebates, credits, or other amounts in the Federal Fund shall accrue to the benefit of the Federal Fund and shall be expended for the same purposes as other moneys in the Federal Fund.
- G. Federal Fund reports will require the LHD and/or Local HPP Entity/City Auditor Controller's or other authorized signature, certifying each report's accuracy and availability of supporting documentation for the State's or the federal government's review.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act and/or other state statute 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, CDPH shall have no liability to pay any funds whatsoever to LHD and/or Local HPP Entity or to furnish any other considerations under this Agreement and LHD and/or Local HPP Entity shall not be obligated to perform any provisions of this Agreement except as to periods for which funding has been provided.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, CDPH shall have the option to either cancel this Agreement with no liability occurring to CDPH, or offer an Agreement amendment to LHD and/or Local HPP Entity to reflect the reduced amount.

3. Amounts Payable

- A. The amount payable under this Agreement shall not exceed:
 - 1. \$1,499,273, PHEP CDC Base Allocation.
 - 2. \$0, Laboratory Allocation.
 - 3. \$0, Laboratory Trainee Stipends.
 - 4. \$0, Laboratory Training Assistance Grant.
 - 5. \$645,375, Cities Readiness Initiative Funds.
 - 6. \$897,227, HPP Allocation.
 - 7. \$131,553, State GF Pandemic Influenza Allocation.

4. Redirection of Funds

Any redirection of funds requires prior approval by CDPH.

5. Federal Cooperative Agreement 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. The Agreement is valid and enforceable only if sufficient funds are made available to CDPH 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 Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

6. Accountability Requirements

- A. CDPH may recoup funds that are not spent for allowable purposes as specified in State statute and determined by CDPH. CDPH will notify the LHD and/or Local HPP Entity prior to recouping such funds.
- B. CDPH may withhold payments if the LHD and/or Local HPP Entity is not in compliance with the terms and conditions of this Agreement or the approved local funding Application, Work Plans and Budgets CDPH may withhold payments if the LHD cannot demonstrate progress toward protecting the jurisdiction from the threat of a bioterrorist attack, infectious disease outbreak or other public health threat or emergency as described in its progress and expenditure reports. CDPH may withhold or reduce payments if the LHD's and/or Local HPP Entity's expenditure reports indicate that quarterly payments remain unspent. CDPH will notify local health officials prior to withholding or reducing such payments.
- C. The LHD and/or Local HPP Entity shall return unexpended funds unless carry over of such funds is approved by CDPH and PHEP or the HPP grant period is extended.
- D. The LHD and/or Local HPP Entity shall maintain the supporting documentation that substantiates all expenditure reports for a minimum of seven years.
- E. Once every three years LHDs and/or Local HPP Entities are subject to an audit by CDPH. The audit will consist of the review of financial records to ensure the existence of proper documentation and the propriety of claims submitted to the State for reimbursement. Such review will include substantive testing:

- To determine that recorded and reported program funds awarded are expended in accordance with terms of the grant Agreement with CDPH;
- To determine that payments are for actual costs and reflect amounts billed to the State;
- To determine that payments are for services rendered;
- To determine that grant funds did not supplant existing levels of State and local funding for this program.

7. Unobligated Balances

At any time during the term of this Agreement, CDPH may request LHDs and/or Local HPP Entity's to identify unobligated funds. The presentation of this information shall be in a manner prescribed by CDPH to include identification of unobligated funds.

8. Terms of Agreement

- A. **PHEP CDC:** This Agreement provides the local funding award for the PHEP CDC federal cooperative Agreement Budget period August 10, 2010 through August 9, 2011. All services must be rendered by and purchases encumbered by August 9, 2011, unless grant is extended. Funds allocated under this Agreement must be liquidated by October 1, 2011.
- B. **State GF Pandemic Influenza:** This Agreement provides the local funding award for the State GF Pandemic Influenza cooperative Agreement Budget period July 1, 2010 through June 30, 2011. All services must be rendered by and purchases encumbered by June 30, 2011. Funds allocated under this Agreement must be liquidated by June 30, 2013. In order for CDPH to liquidate funds by June 30, 2013, a final invoice must be received by CDPH on or before May 1, 2013.
- C. **HPP:** This Agreement provides the local funding award for the HPP federal cooperative Agreement Budget period July 1, 2010 through June 30, 2011. All services must be rendered by and purchases encumbered by June 30, 2011, unless grant is extended. Funds allocated under this Agreement must be liquidated by August 30, 2011.

Exhibit C
2010-11 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Additional Provisions

1. Additional Incorporated Exhibits

The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. These documents may be updated periodically by CDPH, as required by program directives. CDPH shall provide the LHD and/or Local HPP Entity with copies of said documents and any periodic updates thereto, under separate cover. CDPH will maintain on file all documents referenced herein and any subsequent updates.

- A. 2010-2011 Federal Guidance Documents:
- 2010-11 Centers for Disease Control and Prevention (CDC) Public Health Emergency Preparedness (PHEP) Cooperative Agreement Guidance.
 - 2010-11 US Department of Health and Human Services Hospital Preparedness Program (HPP).
- B. CDPH Guidance to LHDs and/or Local HPP Entities for CDC PHEP, State General Fund (GF) Pandemic Influenza, and/or HPP Program Funds.
- C. LHD's and/or Local HPP Entity's Public Health Emergency Preparedness Comprehensive Agreement Application, Work Plans, and Budgets and all attachments (refer to the CDPH Guidance to LHDs and/or Local HPP Entities for all attachments).

2. Contract Amendments

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 State.

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 state 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 CDPH, LHD and/or Local HPP Entity shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. LHD and/or Local HPP Entity 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 stated maximum amounts payable.
- D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH' notification to LHD and/or Local HPP Entity. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. In the event of early termination or cancellation, LHD and/or Local HPP Entity shall be entitled to compensation for services performed satisfactorily under this Agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this Agreement.

4. Dispute Resolution Process

- A. This provision supplements provision 15 of Exhibit D(F).
- B. CDPH may recoup from a LHD and/or Local HPP Entity any funds allocated pursuant to this article that are unspent or that are not expended for purposes specified in subdivision (d).
- C. CDPH may also recoup funds expended by the LHD and/or Local HPP Entity in violation of subdivision (d) of Section 101315 of the California Health and Safety Code.
- D. CDPH may withhold quarterly payments of funds to a LHD and/or Local HPP Entity if the LHD and/or Local HPP Entity is not in compliance with this article or the terms of that LHD's and/or Local HPP Entity's work plans as approved by CDPH.
- E. Before any funds are recouped or withheld from a LHD and/or Local HPP Entity, CDPH shall discuss with local health officials or Local HPP Entities the status of the unspent moneys or the disputed use of the funds, or both.

5. Financial and Compliance Audit Requirements

- A. Paragraph d of provision 16 in Exhibit D(F) is amended to read as follows:
 - d. 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. The LHD/HPP Entity shall keep a copy of the audit report on file and have it available for review by CDPH or auditors upon request.

WHEN DOCUMENT IS FULLY EXECUTED RETURN

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

County of Riverside

2010-11

Agreement No. EPO 10-33

EXHIBIT E

NON-SUPPLANTATION CERTIFICATION FORM

2010-11 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Fiscal Year 2010-2011

(County/City and Name of Local Health Department and/or Local HPP Entity)

I hereby certify that the above-named local health department (LHD) and/or Local HPP Entity shall not use funds allocated by the California Department of Public Health (CDPH) to supplant funding for existing levels of service and that funds shall only be used for the purposes specified in the Fiscal Year (FY) 2010-2011 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Agreement as approved by the CDPH.

I further certify that funds received shall be deposited in an interest-bearing Local Public Health Preparedness Trust Fund as per the Health and Safety Code 101317 and expended only for the purposes stated in the LHDs and/or Local HPP Entity's Grant Application Work Plan and Budget, as approved by the CDPH.

Chairperson, Board of Supervisors, Mayor of a City or designee:

Signature:
Printed Name: Susan Harrington
Title: Director of Public Health
Phone: (951) 358-7036
Date:

Please return the original signed certification with your FY 2010-2011 CDC PHEP, State GF Pandemic Influenza, HPP Funding Agreement Funding Agreement to:

California Department Public Health
Emergency Preparedness Office
Attn: Local Management Unit
MS 7002
P.O. Box 997377
Sacramento, CA 95899-7377

FORM APPROVED COUNTY COUNSEL

BY: *Neal R. Kipnis*
NEAL R. KIPNIS

DATE: *11/23/10*

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 Public Health" and "CDPH" shall 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.

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	17. Human Subjects Use Requirements
2. Travel and Per Diem Reimbursement	18. Novation Requirements
3. Procurement Rules	19. Debarment and Suspension Certification
4. Equipment Ownership / Inventory / Disposition	20. Smoke-Free Workplace Certification
5. Subcontract Requirements	21. Covenant Against Contingent Fees
6. Income Restrictions	22. Payment Withholds
7. Audit and Record Retention	23. Performance Evaluation
8. Site Inspection	24. Officials Not to Benefit
9. Federal Contract Funds	25. Four-Digit Date Compliance
10. Intellectual Property Rights	26. Prohibited Use of State Funds for Software
11. Air or Water Pollution Requirements	27. Use of Small, Minority Owned and Women's Businesses
12. Prior Approval of Training Seminars, Workshops or Conferences	28. Alien Ineligibility Certification
13. Confidentiality of Information	29. Union Organizing
14. Documents, Publications, and Written Reports	30. Contract Uniformity (Fringe Benefit Allowability)
15. Dispute Resolution Process	31. Lobbying Restrictions and Disclosure Certification
16. Financial and Compliance Audit Requirements	

1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the California Department of Public Health (CDPH) 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 CDPH, 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 Veteran's 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 CDPH 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 CDPH, the Contractor may request in writing to CDPH, 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 CDPH 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 CDPH's 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 CDPH 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 CDPH. 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, property, commodities and/or supplies are furnished by CDPH or expenses for said items are reimbursed with state or federal funds.)

a. Equipment definitions

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

- (1) **Major equipment/property:** 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 CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
 - (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.
- 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 CDPH Program Contract Manager, to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH 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 CDPH. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH 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 CDPH, prior written authorization from the appropriate CDPH 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 CDPH, 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 CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH 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. CDPH 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 property is furnished by CDPH and/or when said items are purchased or reimbursed with state or federal funds.)

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

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

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

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

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.
- (c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, CDPH 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 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 property.
- (1) In administering this provision, CDPH may require the Contractor and/or Subcontractor to repair or replace, to CDPH's satisfaction, any damaged, lost or stolen state equipment and/or 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 CDPH Program Contract Manager.

- e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH 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 property to the CDPH Program Contract Manager and shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

g. Motor Vehicles

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH 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 CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH 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 CDPH 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 CDPH 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 CDPH 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 CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH 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 CDPH.
- (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 (California Department of Public Health (CDPH)).
 - [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 CDPH, 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 CDPH, 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, CDPH 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 Contracting Manual 5.80. View this publication at the following Internet address:

<http://www.ols.dgs.ca.gov/Contract+Manual/Chapters4through6.htm>

- b. CDPH 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 CDPH 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 CDPH.
- 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 CDPH. CDPH may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by CDPH.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- e. CDPH 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 CDPH to the Contractor, to permit CDPH 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 CDPH, 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, and 31 or other numbered provisions herein that 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 CDPH, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by CDPH 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 CDPH, 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. CDPH 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 CDPH has agreed in a signed writing to accept a license, CDPH 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 CDPH 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 CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH 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 CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- (4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's 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 CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.

- (5) Contractor further agrees to assist and cooperate with CDPH 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 CDPH's 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 CDPH 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 CDPH, 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 CDPH 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 CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH 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 CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2007, etc.], Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the Department of Public Health." 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 CDPH 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 CDPH, without additional compensation, all its right, title and interest in and to such inventions and to assist CDPH 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

CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, 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 CDPH 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 CDPH.

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 CDPH 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 CDPH 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) CDPH 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 CDPH 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 CDPH's 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 CDPH 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. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.

- (2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH 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 CDPH 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, CDPH 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 CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH 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, CDPH 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 CDPH 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 CDPH 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 CDPH without prior written authorization from the CDPH 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 CDPH, 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 CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.
 - (1) The Contractor should first informally discuss the problem with the CDPH 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 therefore. 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 CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.
- e. There are organizational differences within CDPH's 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 CDPH 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 CDPH 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 CDPH 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 CDPH Program Contract Manager shall forward the audit report to CDPH's 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 CDPH 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, CDPH shall act upon the proposal within 60 days after receipt of the written proposal. CDPH 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, CDPH 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 CDPH 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 CDPH 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, CDPH 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, CDPH 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 CDPH 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.)

CDPH 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 CDPH. Negative performance evaluations may be considered by CDPH 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 CDPH 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, CDPH 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 CDPH, 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 individuals(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 CDPH 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
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
CERTIFICATION REGARDING LOBBYING

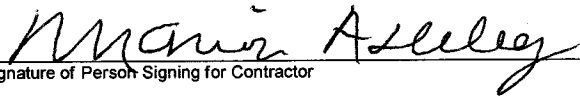
The undersigned certifies, to the best of his or her knowledge and belief, that:

(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	MARION ASHLEY
Contract / Grant Number	 Signature of Person Signing for Contractor
Date	CHAIRMAN, BOARD OF SUPERVISORS

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

California Department of Public Health

ATTEST:

KECIA HARPER-IHEM, Clerk

By 
DEPUTY

FORM APPROVED COUNTY COUNSEL
BY 
NEAL R. KIPNIS DATE 11/23/10

CDPH 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
0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>Year _____ quarter _____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p>Tier ____, if known:</p> <p>Congressional District, If known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, If known:</p>	
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description:</p> <p>CDFA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</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: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>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 follow-up 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.

TWELFTH AMENDMENT TO THE AGREEMENT

03-081

WITH

RIVERSIDE COUNTY MEDICAL ASSOCIATION

(Physician Alert System)

That certain Agreement between the COUNTY OF RIVERSIDE through its Community Health Agency ("COUNTY") and Riverside County Medical Association ("SUBCONTRACTOR"), agreement approved by Purchasing Agent on June 9, 2003, first time amended on September 4, 2003, second time amended on June 10, 2004, third time amended on June 22, 2004, fourth time amended on August 31, 2005, fifth time amended on April 10, 2006, sixth time amended on June 12, 2006, seventh time amended on June 19, 2007, eighth time amended on November 28, 2007, ninth time amended on December 11, 2007, tenth time amended on September 16, 2008, eleventh time amended on April 14, 2009 is hereby amended for the twelfth time effective July 1, 2010 as follows:

- To amend all references to the period of performance from July 1, 2009 through June 30, 2010 to July 1, 2010 through June 30, 2011.
To increase the amount of compensation from Twenty thousand dollars (\$20,000) to Twenty-Five thousand dollars (\$25,000) including all expenses.
All other terms and conditions of this Agreement are to remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment.

CONTRACTOR
Riverside County Medical Association

COUNTY OF RIVERSIDE

By _____

By Marion Ashley
Chairman of the Board

MARION ASHLEY

Type or Print Name

Date _____

Date DEC 07 2010

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

///
//
/
ys

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

FORM APPROVED COUNTY COUNSEL
BY: [Signature] DATE 1/23/10
NEAL R. KIPNIS

DEC 07 2010 3.6

Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147

COUNTY OF RIVERSIDE

COMMUNITY HEALTH AGENCY Thank you.

FOR COUNTY USE ONLY



COUNTY AGENCY/DEPT/BRANCH CHA/DOH/PHEPR		CONTRACT NO. 11-043		RFP NO. ----
FUND 21760	DEPARTMENT ID 4200102100	PROJECT-GRANT HS100084	PROGRAM ---	CLASS/LOCATION 6610-33201
CONTRACT AMOUNT \$170,000		PERIOD OF PERFORMANCE July 1, 2010 through June 30, 2011		
COUNTY CONTACT Ramon Leon (951) 358-87100				
CONTRACTOR REPRESENTATIVE Cathy Winans (213) 538-0719				
PROGRAM NAME Reddinet Upgrade				

This agreement 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
Hospital Association of Southern California

hereinafter referred to as CONTRACTOR.

WITNESSETH:

WHEREAS, Government Code Section 31000 authorizes the COUNTY to contract for special services to be provided by persons who are special trained, experienced, and competent to perform the services required; and

WHEREAS, the COUNTY desires to up-grade Reddinet Emergency Medical Communications Systems from microwave system to satellite system; and

WHEREAS, CONTRACTOR holds the rights to Reddinet and is willing to perform the duties set out herein.

NOW THEREFORE in consideration of the mutual promises, covenants and conditions hereinafter contained, the Parties hereto mutually agree as provided on pages 1 through 17, and Exhibits A and B, attached hereto and incorporated herein.

CONTRACTOR

By _____
Hospital Association of Southern California

Print Name _____

Date _____

515 South Figueroa Street, Suite 1300

Los Angeles, CA 97001-3300

COUNTY

By Marion Ashley
Chairman of the Board
MARION ASHLEY

Date DEC 07 2010

ATTEST: Kechia Harper-Ihem

By Kalvin B. Gorton, deputy

Date DEC 07 2010

FORM APPROVED COUNTY COUNSEL
BY: Neal R. Kipnis DATE 11/27/10

DEC 07 2010 3.0

1 **1. DESCRIPTION OF SERVICES**

2 **1.1** CONTRACTOR shall provide all services as outlined and specified in Exhibit A,
3 SCOPE OF WORK, attached hereto and by this reference incorporated herein.

4 **1.2** CONTRACTOR shall perform to the satisfaction of the COUNTY and in
5 conformance to and consistent with the highest standards of firms/professionals in
6 the same discipline in the State of California.

7 **1.3** CONTRACTOR affirms this is fully, apprised of all the work to be performed
8 under this Agreement; and the CONTRACTOR agrees it can properly perform
9 this work at the prices stated in Exhibit B, PAYMENT PROVISION.

10 CONTRACTOR is not to perform services or provide products outside of this
11 Agreement.

12 **1.4** Acceptance by the COUNTY of the CONTRACTOR'S performance under this
13 Agreement does not operate as a release of CONTRACTOR'S responsibility for
14 full compliance with the terms of this Agreement.

15 **2. PERIOD OF PERFORMANCE**

16 **2.1** This Agreement shall be effective on July 1, 2010 through June 30, 2011, unless
17 terminated as specified in Section 15, TERMINATION.

18 **3. COMPENSATION.**

19 **3.1** In consideration of services provided by CONTRACTOR pursuant to Exhibit A,
20 SCOPE OF WORK, attached hereto and incorporated herein, CONTRACTOR
21 shall be entitled to receive payment as specified in Exhibit B, PAYMENT
22 PROVISIONS, attached hereto and incorporated herein. Maximum payment by
23 COUNTY to CONTRACTOR shall not exceed one hundred-seventy thousand,
24 dollars (\$170,000), including all expenses.

25 **3.2** COUNTY is not responsible for any fees or cost incurred above or beyond the
26 contracted amount, as stated above in Section 3, COMPENSATION, Paragraph
27 3.1, and shall have no obligation to purchase any specified amount of services.
28

1 Unless otherwise specifically stated in Exhibit B, PAYMENT PROVISIONS,
2 COUNTY shall not be responsible for payment of any of CONTRACTOR'S
3 expenses related to this Agreement.

4 **3.3** COUNTY requires written proof satisfactory to COUNTY of cost increases prior
5 to any approved price adjustment. A minimum of 30-day advance notice in
6 writing is required to be considered and approved by COUNTY. No retroactive
7 price adjustments will be considered. Any price increases must be stated in a
8 written amendment to this Agreement.

9 **3.4** COUNTY obligation for payment of this Agreement beyond the current fiscal
10 year end is contingent upon and limited by the availability of COUNTY funding
11 from which payment can be made. No legal liability on the part of the COUNTY
12 shall rise for payment beyond June 30 of each calendar year unless funds are
13 made available for such payment. In the event such funds are not forthcoming for
14 any reason, COUNTY shall immediately notify CONTRACTOR in writing; and
15 this Agreement shall be deemed terminated and have no force and effect.
16

17 **4. HOLD HARMLESS/INDEMNIFICATION.**

18 **4.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its
19 Agencies, Districts, Special Districts and Departments, their respective directors,
20 officers, Board of Supervisors, elected and appointed officials, employees, agents
21 and representatives from any liability, claim, damage or action whatsoever, based
22 or asserted upon any act or omission of CONTRACTOR, its officers, employees,
23 subcontractors, agents or representatives arising out of or in any way relating to
24 this Agreement, including but not limited to property damage, bodily injury, or
25 death. CONTRACTOR shall defend, at its sole cost and expense, including but
26 not limited to attorney fees, cost of investigation, defense and settlements or
27 awards, the County of Riverside, its Agencies, Districts, Special Districts and
28 Departments, their respective directors, officers, Board of Supervisors, elected

1 and appointed officials, employees, agents and representatives in any such action
2 or claim. With respect to any action or claim subject to indemnification herein by
3 CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use
4 counsel of its own choice and shall have the right to adjust, settle, or compromise
5 any such action or claim without the prior consent of COUNTY; provided,
6 however, that any such adjustment, settlement or compromise in no manner
7 whatsoever limits or circumscribes CONTRACTOR'S indemnification of
8 COUNTY. CONTRACTOR'S obligation hereunder shall be satisfied when
9 CONTRACTOR has provided to COUNTY the appropriate form of dismissal (or
10 similar document) relieving COUNTY from any liability for the action or claim
11 involved.

12 **4.2** The specified insurance limits required in this Agreement shall in no way limit or
13 Circumscribe, CONTRACTOR'S obligations to indemnify and hold harmless,
14 COUNTY.

15 **4.3** In the event there is conflict between this clause and California Civil Code
16 Section 2782, this clause shall be interpreted to comply with Civil Code 2782.
17 Such interpretation shall not relieve the CONTRACTOR from indemnifying the
18 COUNTY to the fullest extent allowed by law.

19
20 **5. INDEPENDENT CONTRACTOR.**

21 **5.1** The CONTRACTOR is, for the purpose relating to this Agreement, an
22 independent CONTRACTOR and shall not be deemed an employee of the
23 COUNTY. It is expressly understood and agreed that the CONTRACTOR
24 (including its employees, agents and subcontractors) shall in no event be entitled
25 to any benefits to which COUNTY employees are entitled, including but not
26 limited overtime, any retirement benefits, worker's compensation benefits, and
27 injury leave or other leave benefits. There shall be no employer-employee
28 relationship between the parties; and CONTRACTOR shall hold COUNTY
harmless from any and all claims that parties; and CONTRACTOR shall hold

COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement.

5.2 It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the result to be accomplished by the services hereunder agree to render and perform and not as to the means and methods for accomplishing the results.

6. **LIABILITY INSURANCE** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement:

6.1 **Workers' Compensation:**

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than one million dollars \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

6.2 **Commercial General Liability:**

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name all Agencies, Districts, Special Districts, and Departments of the COUNTY

1 of Riverside, their respective directors, officers, Board of Supervisors, employees,
2 elected or appointed officials, agents or representatives as Additional Insured's.
3 Policy's limit of liability shall not be less than one million dollars \$1,000,000 per
4 occurrence combined single limit. If such insurance contains a general aggregate
5 limit, it shall apply separately to this agreement or be no less than two (2) times
6 the occurrence limit.

7 **6.3 General Insurance Provisions - All lines:**

8 **6.3.1** Any insurance carrier providing insurance coverage hereunder shall be
9 admitted to the State of California and have an A M BEST rating of not
10 less than A: VIII (A:8) unless such requirements are waived, in writing, by
11 the County Risk Manager. If the County's Risk Manager waives a
12 requirement for a particular insurer such waiver is only valid for that
13 specific insurer and only for one policy term.

14 **6.3.2** The CONTRACTOR must declare its insurance self-insured retentions. If
15 such self-insured retentions exceed five hundred, thousand \$500,000 per
16 occurrence such retentions shall have the prior written consent of the
17 County Risk Manager before the commencement of operations under this
18 Agreement. Upon notification of self insured retention unacceptable to
19 the COUNTY, and at the election of the Country's Risk Manager,
20 CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-
21 insured retention as respects this Agreement with the COUNTY, or 2)
22 procure a bond which guarantees payment of losses and related
23 investigations, claims administration, and defense costs and expenses.

24 **6.3.3** CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to
25 furnish the County of Riverside with either 1) a properly executed original
26 Certificate(s) of Insurance and certified original copies of Endorsements
27 effecting coverage as required herein, or 2) if requested to do so orally
28

1 or in writing by the County Risk Manager, provide original Certified
2 copies of policies including all Endorsements and all attachments thereto,
3 showing such insurance is in full force and effect. Further, said
4 Certificate(s) and policies of insurance shall contain the covenant of the
5 insurance carrier(s) that thirty (30) days written notice shall be given to the
6 County of Riverside prior to any material modification, cancellation,
7 expiration or reduction in coverage of such insurance. In the event of a
8 material modification, cancellation, expiration, or reduction in coverage,
9 this Agreement shall terminate forthwith, unless the County of Riverside
10 receives, prior to such effective date, another properly executed original
11 Certificate of Insurance and original copies of endorsements or certified
12 original policies, including all endorsements and attachments thereto
13 evidencing coverage's set forth herein and the insurance required herein is
14 in full force and effect. *CONTRACTOR shall not commence operations*
15 *until the COUNTY has been furnished original Certificate (s) of Insurance*
16 *and certified original copies of endorsement or policy of insurance*
17 *including all endorsements and any and all other attachments as required*
18 *in this Section. An individual authorized by the insurance carrier to do so*
19 *on its behalf shall sign the original endorsements for each policy and the*
20 *Certificate of Insurance.*

21 **6.3.4** It is understood and agreed to by the parties hereto and the insurance
22 company(s), that the Certificate(s) of insurance and policies shall so
23 covenant and shall be construed as primary insurance, and the COUNTY'S
24 insurance and/or deductibles and/or self-insured retention's or self-insured
25 programs shall not be construed as contributory.

26 **6.3.5** The COUNTY'S Reserved Rights –Insurance. If, during the term of this
27 Agreement or any extension thereof, there is a material change in the
28 scope of services; or, there is a material change in the equipment to be

1 used in the performance of the scope of work (such as the use of aircraft or
 2 watercraft) the COUNTY reserves the right to adjust the type of insurance
 3 required herein, if; in the COUNTY Risk Manager's reasonable judgment
 4 the amount or type of insurance carried by the CONTRACTOR has
 5 become inadequate

6 **6.3.6** CONTRACTOR shall pass down the insurance obligations contained
 7 herein to all tiers of subcontractors working under this Agreement.

8 **6.3.7** The insurance requirements contained in this Agreement may be met with
 9 a program(s) of self-insurance acceptable to the COUNTY.

10
 11 **7. LICENSE**

12 **7.1** CONTRACTOR shall, through the term of this Agreement, maintain all licenses
 13 necessary for the provision of the services hereunder and required by the laws and
 14 regulations of the United States, the State of California, County of Riverside, and
 15 all other governmental agencies. CONTRACTOR shall notify COUNTY
 16 immediately, in writing, of inability to obtain or maintain such license. Said
 17 inability shall be cause for termination of this Agreement.

18 **7.2** CONTRACTOR shall ensure that CONTRACTOR'S employees, agents and
 19 other CONTRACTOR'S performing services under the terms of this Agreement
 20 are in compliance with all relative licensing requirements. CONTRACTOR
 21 hereby agrees to notify COUNTY immediately, in writing, of inability of
 22 CONTRACTOR or any of CONTRACTOR'S employees, agents and other
 23 CONTRACTOR'S, to obtain or maintain such license(s). Said inability shall be
 24 cause for termination of this Agreement.

25 **7.3** A copy of each such license, permit, approval, waiver, exemption, registration,
 26 accreditation, and certificate shall be provided to COUNTY.

27
 28 **8. RECORDS AND DOCUMENTS**

8.1 CONTRACTOR shall make available, upon written request by any duly authorized
 Federal, State or COUNTY agency, a copy of this Agreement and such books,

1 documents and records as are necessary to certify the nature and extent of the
2 CONTRACTOR'S costs related to this Agreement. All such books, documents and
3 records shall be maintained by CONTRACTOR for at least five years following
4 termination of this Agreement and be available for audit by the COUNTY.

5 CONTRACTOR shall provide to the COUNTY reports and information related to
6 this Agreement.

7 **9. EDD REPORTING REQUIREMENTS**

8 In order to comply with child support enforcement requirements of the State of
9 California, the County of Riverside may be required to submit a Report of Independent
10 CONTRACTOR(s) form **DE 542** to the Employment Development Department. The
11 selected CONTRACTOR agrees to furnish the required CONTRACTOR data and
12 certifications to the County of Riverside within 10 days of notification of award of
13 contract when required by the EDD. It is expressly understood that this data will be
14 transmitted to governmental agencies charged with the establishment and enforcement of
15 child support orders and for no other purposes and will be held confidential by those
16 agencies. Failure of the CONTRACTOR to timely submit the data and/or certificates
17 required may result in contract being awarded to another CONTRACTOR. In the event a
18 contract has been issued, failure of the CONTRACTOR to comply with all federal and
19 state reporting requirements for child support enforcement or to comply with all lawfully
20 served Wage and Earnings Assignments Orders and Notices of Assignment shall
21 constitute a material breach of contract. Failure to cure such breach within 60 calendar
22 days of notice from the County shall constitute grounds for termination of the contract.

23 If you have any questions concerning this reporting requirement, please call (916) 657-
24 0529. You may also contact your local Employment Tax Customer Service Office listed
25 in your telephone directory in the State Government section under "Employment
26 Development Department," or you may access their Internet site at www.edd.ca.gov.

27 **10. OSHA REGULATIONS**

28 **10.1** CONTRACTOR hereby certifies awareness of the Occupational Safety and
Health Administration (OSHA) standards and codes as set forth by the U.S.

1 Department of Labor, and the derivative Cal/OSHA standards, laws and
2 regulations relating thereto, and verifies that all performance under this
3 Agreement shall be in compliance therewith.

4 **11. CONFIDENTIALITY**

5 **11.1** CONTRACTOR shall not use for personal gain or make other improper use of
6 privileged or confidential information which is acquired in connection with this
7 Agreement. The term "privileged or confidential information" includes but is not
8 limited to: unpublished or sensitive technological or scientific information;
9 medical, personnel, or security records; anticipated material requirements or
10 pricing/purchasing actions; COUNTY information or data which is not subject to
11 public disclosure; COUNTY operational procedures; and knowledge of selection
12 of contractors, subcontractors or suppliers in advance of official announcement.

13 **11.2** CONTRACTOR shall protect from unauthorized disclosure names and other
14 identifying information concerning persons receiving services pursuant to this
15 Agreement, except for general statistical information not identifying any person.
16 CONTRACTOR shall not use such information for any purpose other than
17 carrying out the CONTRACTOR'S obligations under this Agreement. The
18 CONTRACTOR shall promptly transmit to the COUNTY all third party requests
19 for disclosure of such information. The CONTRACTOR shall not disclose,
20 except as otherwise specifically permitted by this Agreement or authorized in
21 advance in writing by the COUNTY, any such information to anyone other than
22 the COUNTY. For purposes of this paragraph, identity shall include, but not be
23 limited to name, identifying number, symbol, or other identifying particular
24 assigned to the individual, such as finger or voice print or a photograph.

25
26 **12. CONDUCT OF CONTRACTOR**

27 **12.1** CONTRACTOR covenants that it presently has no interest, including, but not
28 limited to, other projects or contracts, and shall not acquire any such interest,

1 direct or indirect, which would conflict in any manner or degree with
2 CONTRACTOR'S performance under this Agreement. CONTRACTOR agrees
3 to inform the COUNTY of all the CONTRACTOR'S interests, if any, which are
4 or may be perceived as incompatible with the COUNTY'S interest

5 **12.2** CONTRACTOR shall not, under circumstances which could be interpreted as an
6 attempt to influence the recipient in the conduct of his duties, accept any gratuity
7 or special favor from individuals or firms with whom the CONTRACTOR is
8 doing business or proposing to do business, in accomplishing the work under this
9 Agreement.

10 **12.3** CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and
11 entertainment directly or indirectly to COUNTY employees.

12
13 **13. INSPECTION OF SERVICE; QUALITY CONTROL/ASSURANCE**

14 **13.1** All performances (which includes services, workmanship, materials, supplies and
15 equipment furnished or utilized in the performance of this Agreement) shall be
16 subject to inspection and test by the COUNTY or other regulatory agencies at all
17 times. CONTRACTOR shall provide adequate cooperation to any inspector or
18 other COUNTY representative to permit him/her to determine the
19 CONTRACTOR'S conformity with the terms of this Agreement. If any services
20 performed or products provided by CONTRACTOR are not in conformance with
21 the terms of this Agreement, the COUNTY shall have the right to require the
22 CONTRACTOR to perform the services or provide the products in conformance
23 with the terms of the Agreement at no additional cost to the COUNTY. When
24 the services to be performed or the products to be provided are of such nature that
25 the difference cannot be corrected, the COUNTY shall have the right to 1) require
26 the CONTRACTOR immediately to take all necessary steps to ensure future
27 performance in conformity with the terms of the Agreement; and/or 2) reduce the
28 Agreement price to reflect the reduced value of the services performed or

1 products provided. COUNTY may also terminate this Agreement for default and
 2 charge to CONTRACTOR any costs incurred by the COUNTY because of the
 3 CONTRACTOR'S failure to perform.

4 **13.2** CONTRACTOR shall establish adequate procedures for self-monitoring and
 5 quality control and assurance to ensure proper performance under this Agreement;
 6 and shall permit a COUNTY representative or other regulatory official to monitor,
 7 assess or evaluate CONTRACTOR'S performance under this Agreement at any
 8 time upon reasonable notice to CONTRACTOR.

9 **14. DISPUTES**

10 **14.1** The parties shall attempt to resolve any disputes amicably the working level. If
 11 that is not successful, the dispute shall be referred to the senior management of
 12 the parties. Any dispute relating to this Agreement which is not resolved by the
 13 parties shall be decided by the COUNTY'S Purchasing Department's
 14 Compliance Contract Officer shall be the final and conclusive unless determined
 15 by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary,
 16 or so grossly erroneous as necessarily to imply bad faith. CONTRACTOR shall
 17 proceed diligently with the performance of this Agreement pending the resolution
 18 of a dispute.

19 **14.2** Prior to the filing of any legal action related to this Agreement, the parties shall be
 20 obligated to attend a mediation session in Riverside County before a neutral third
 21 party mediator. A second mediation session shall be required if the first session is
 22 not successful. The parties shall share the cost of the mediations.

23 **15. TERMINATION.**

24 **15.1** COUNTY may terminate this Agreement without cause upon 30 days written
 25 notice served upon the CONTRACTOR stating the extent and effective date of
 26 termination.

27 **15.2** COUNTY may, upon five (5) days written notice, terminate this agreement for
 28 CONTRACTOR'S default, if CONTRACTOR refuses or fails to comply with the

1
2 terms of this Agreement or fails to make progress so as to endanger performance
3 and does not immediately cure such failure. In the event of such termination, the
4 COUNTY may proceed with the work in any manner deemed proper by
5 COUNTY.

6 **15.3** After receipt of the notice of termination, CONTRACTOR shall:

7 **15.3.1** Stop all work under this Agreement on the date specified in the notice of
8 termination;

9 **15.3.2** Transfer to COUNTY and deliver in the manner as directed by
10 COUNTY any materials, reports or other products which, if the
11 Agreement had been completed or continued, would have been required
12 to be furnished to COUNTY.

13 **15.4** After termination, COUNTY shall make payment for CONTRACTOR'S
14 performed up to the date of termination in accordance with this Agreement and at
15 the rates set forth in Exhibit B, Payment Provision.

16 **15.5** CONTRACTOR'S rights under this Agreement shall terminate (except for fees
17 accrued prior to the date of termination) upon dishonesty or a willful or material
18 breach of this Agreement by CONTRACTOR; or in the event CONTRACTOR'S
19 unwillingness or inability for any reasons whatsoever to perform the terms of this
20 Agreement. In such event, CONTRACTOR shall not be entitled to any further
21 compensation under this Agreement.

22 **15.6** The rights and remedies of COUNTY provided in this section shall not be
23 exclusive and are in addition to any other rights and remedies provided by law or
24 under this Agreement.

25 **16. FORCE MAJEURE**

26 **16.1** Neither Party shall, be liable nor deemed to be in default for any delay or failure
27 in performance under this Agreement or other interruption of service or
28 employment deemed resulting, directly or indirectly, from acts of God.

1 **17. NONDISCRIMINATION AND ELIGIBILITY**

2 **17.1** CONTRACTOR shall not discriminate in the provision of services, allocation of
3 benefits, accommodation in facilities, or employment of personnel, on the basis of
4 ethnic group identification, race, color, creed, ancestry, religion, national origin,
5 physical handicap, medical condition, or sex in the performance of this
6 Agreement; and, to the extent they shall be found to be applicable hereto, shall
7 comply with the provisions of California Fair Employment and Housing Act
8 (Gov. Code 12900 et. Seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352),
9 the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et. Seq.) and all
other applicable laws or regulations.

10 **18. CONFLICT OF INTEREST**

11 **18.1** CONTRACTOR and CONTRACTOR'S employees shall have no interest, and
12 shall not acquire any interest, direct or indirect, which will conflict in any manner
13 or degree with the performance of services required under this Agreement.

14 **19. ALTERATION**

15 **19.1** No alteration or variation of the terms of this Agreement shall be valid unless
16 made in writing and signed by the parties hereto, and no oral understanding or
17 agreement not incorporated herein, shall be binding on any of the parties hereto.

18 **19.2** Only the County Board of Supervisors or the County Purchasing Agent may
19 authorize any alteration or revision of this Agreement. The parties expressly
20 recognize that COUNTY personnel are without authorization to either change or
21 waive any requirements of this Agreement.

22 **19.3** This Agreement including any attachments or exhibits, constitutes the entire
23 Agreement of the parties with respect to its subject matter and supersedes all prior
24 and contemporaneous representations, proposals, discussions and
25 communications, whether oral or in writing. This Agreement may be changed or
26 modified only by a written amendment signed by authorized representatives of
27 both parties.
28

1 **20. ASSIGNMENT/SUBCONTRACTORS**

2 **20.1** CONTRACTOR may not delegate or assign any interest in this Agreement,
3 whether by operation of law or otherwise, without the prior written consent of
4 COUNTY. Any attempt to delegate or assign any interest herein shall be deemed
5 void and of not force or effect.

6 **20.2** No contract shall be made by the CONTRACTOR with any other party for
7 furnishing any of the work or service under this Agreement without the prior
8 written approval of the COUNTY; but this provision shall not require the
9 approval of contracts of employment between the CONTRACTOR and personnel
10 assigned under this Agreement, or for parties named in the proposal and agreed to
11 under this Agreement.

12 **21. ADMINISTRATION** The COUNTY Purchasing Agent, or designee, shall administer
13 this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the
14 liaison with CONTRACTOR in connection with this Agreement.

15 **22. WAIVER**

16 Any waiver by COUNTY of any breach of any one or more of the terms of this
17 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
18 same or of any other term thereof. Failure on the part of the COUNTY to require exact,
19 full and complete compliance with any terms of this Agreement shall not be construed as
20 in any manner changing the terms hereof or stopping COUNTY from enforcement
21 hereof.

22 **23. JURISDICTION/VENUE**

23 This Agreement shall be governed by, and construed in accordance with, the laws of the
24 State of California. CONTRACTOR agrees and consents to the exclusive jurisdiction of
25 the courts of the State of California for all purposes regarding this Agreement and further
26 agrees and consents that venue of any action brought hereunder shall be exclusively in
27 the County of Riverside, California.
28

1 **24. SEVERABILITY**

2 If any provision in this Agreement is held by a court of competent jurisdiction to be
3 invalid, void or unenforceable, the remaining provisions will nevertheless continue in full
4 force without being impaired or invalidated in any way.

5 **25. CAPTIONS AND PARAGRAPH HEADINGS** Captions and paragraph headings

6 used in this Agreement are for convenience only and are not a part of this Agreement and
7 shall not be used in construing this Agreement.

8 **26. NOTICES** All correspondence and notices required or contemplated by this Agreement

9 shall be delivered to the respective parties at the addresses set forth below and are
10 deemed submitted one day after their deposit in the United States mail, postage prepaid:

11 **COUNTY:**

12 County of Riverside, Community Health Agency
13 Public Health Emergency Preparedness and Response
14 ATTN: Ramon Leon
3900 Sherman Drive
Riverside, CA 92503

15 **CONTRACTOR:**

16 Hospital Association of Southern California (HASC)
17 ATTN: Cathy Winans
515 South Figueroa Street
18 Suite 1300
Los Angeles, CA 97001-3300

19
20 or to such other address(es) as the parties may hereafter designate.

21 // // // // //

EXHIBIT A
SCOPE OF WORK

The Hospital Association of Southern California, hereinafter referred to as CONTRACTOR, shall provide the following deliverables to the Community Health Agency, herein referred to as COUNTY.

1. BACKGROUND:

CONTRACTOR owns all rights, title, and interest in and to the ReddiNet Service; therefore, no other agency has the ability to complete upgrades on the ReddiNet Emergency Medical Communications Systems.

ReddiNet is currently installed in all of the 15 hospitals in Riverside County, as well as at the Emergency Medical Services (EMS) Agency, Riverside County Fire (RCF) dispatch center, American Medical Response (AMR) dispatch center, and at the alternate Departmental Operations Center (DOC) at the Riverside County Health Administration Building. ReddiNet is an essential component of disaster and bioterrorism preparedness and the mechanism by which all of the above entities communicate. ReddiNet is critical in that it allows for the rapid dissemination of information during response activities. Upgrading will make ReddiNet much more reliable, expandable, and a vastly superior system. It will enhance the system's capacity to withstand almost, any type of interruption caused from severe weather or high magnitude earthquake.

2. DELIVERABLES:

CONTRACTOR will provide satellite dish, modems, cabling, on-site survey, architectural drawings, Office of Statewide Health Planning & Development (OSHPD) documents, filings, approvals. Each hospital will construct its own penetrating mount (on the roof) by its own facility workforce or outside contractor. Provide an annual subscription, enhancement and alignment with other areas.

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EXHIBIT B**PAYMENT PROVISIONS**

The Hospital Association of Southern California, (CONTRACTOR), shall be entitled to receive payment for services rendered as specified herein:

1. COUNTY agrees to pay, all acceptable invoices, as per requirements in item 2 below, submitted by CONTRACTOR as soon as reasonable in accordance with the County policy and procedures. Payment by the COUNTY of an invoice shall not preclude the COUNTY from subsequently raising any errors which were present on such invoice and/or from taking a set off in the amount of such error from any amount the COUNTY still owes CONTRACTOR.
2. In arrears of service, CONTRACTOR shall submit to COUNTY a one-time invoice of one hundred-seventy thousand dollars (17 sites x \$10,000/per site). The invoice shall include CONTRACTOR'S name and address, and contain original signature of CONTRACTOR.
3. CONTRACTOR shall submit invoices to:

Riverside County Department of Public Health
FISCAL Department
ATTN: Accounts Payable
PO Box 7849
Riverside, CA 92513-7849
4. MAXIMUM COMPENSATION payable to CONTRACTOR shall not exceed one hundred seventy thousand dollars (\$170,000) for the services referenced in Exhibit A, including all expenses.

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